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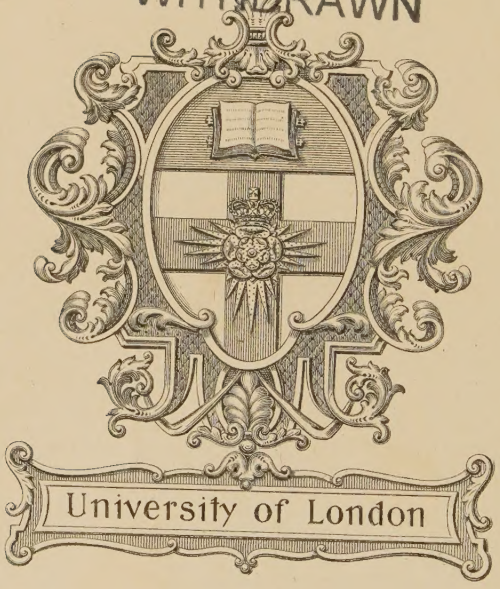

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OF THE

ROYAL HISTORICAL SOCIETY

PRESIDENTIAL ADDRESS

By Professor C. H. FIRTH, LL.D., F.B.A., *President*

Delivered February 15, 1917

ENGLAND AND AUSTRIA

At a time like the present it may be of use to review one of the accepted opinions about our foreign policy by the light of history, and see how far it corresponds with facts. We sometimes read articles in which Austria is described as the traditional ally of England, and the alliances of the two states in the past are made an argument in favour of a particular line of policy in the present. It is therefore worth while to inquire into the earlier relations of England and Austria, and to summarise them as far as they can be sketched in a few pages.

In the Middle Ages, relations between England and Austria—or the countries now forming part of the Austrian Empire—were accidental and intermittent.[1] Continuous relations between England and the Hapsburgs began at the close of the fifteenth century, in the time of Maximilian I.

[1] See R. Pauli's *Bilder aus alt England*, translated by E. C. Otté, pp. 89–116, England's earliest relations with Austria and Prussia.

The greatness of that house began then, for he united in his hands all the dominions of his family, and became also, by his marriage with Mary of Burgundy, ruler of the Netherlands. The commercial interests of England and the Netherlands necessitated frequent intercourse between their rulers, and common hostility to France made them allies. Maximilian formed a league with Henry VII against France in 1490, and one for the same object with Henry VIII in 1513.[1]

However, these incidents are only a preface to the story. The modern Austrian state did not come into existence till 1526, when Ferdinand, the brother of Charles V, united the crowns of Bohemia and Hungary to the Austrian dominions of the Hapsburg house; or perhaps I should say the year 1558, when the same Ferdinand became Emperor after the separation of the Spanish and Austrian portions of Charles V's dominions. By that time the Reformation had divided Europe into two hostile camps; but Bohemia, Hungary, and the Austrian provinces contained many Protestants. The policy of Ferdinand and of his successor Maximilian was tolerant, so that an alliance with England was possible. Hence a marriage between Elizabeth and the Archduke Charles, one of Ferdinand's sons, seemed politically expedient, and was the favourite plan of the moderate Catholics and Protestants in England. For ten years the project was discussed: Cecil's tabular statement of the relative merits of the Archduke and the Earl of Leicester as suitors is given in one of Froude's footnotes, and he summed up in the Archduke's favour. But the match fell through, partly because the Archduke demanded large religious privileges after his marriage, and partly because he declined to come to England to be inspected before it.[2] By the beginning of the seventeenth

[1] Pribram, *Oesterreichische Staatsverträge*, i. 28, 83, 96.

[2] Froude, *History of England*, vi. 422. See, for the history of the negotiation, E. Wertheimer, *Heirathsverhandlungen zwischen Elizabeth von England und Erzherzog Karl von Oesterreich*, 1559–61; Sybel's *Historische Zeitschrift*, N.F. iv. 385–432.

century the possibility of such an alliance had vanished. Under the influence of the counter-Reformation the Government of Austria had become intolerantly Catholic. In 1612 (March 28), James made an alliance with the princes of the German Protestant Union, and in 1613 married his daughter to the Elector Palatine (Feb. 14). But when the Bohemian Revolution broke out, and the Elector was chosen King of Bohemia, James refused to aid his son-in-law, and endeavoured to mediate between the Emperor and the Bohemians. English sympathy with the Bohemians, except in court circles, was universal. A contemporary historian wrote:

'With what great and general love Britain burned towards Frederick and Queen Elizabeth, I can scarcely describe. There was not a soldier, an officer, or a knight, that did not beg to be allowed to go to the help of Bohemia. As the exchequer was empty and did not suffice for domestic expense, men and women even brought money, with most willing minds, to sustain the war.'

Pamphlets, ballads, and speeches in Parliament all reflected this enthusiasm.[1]

On October 20, 1619, the battle of the White Mountain put an end at once to the royalty of the Elector and to the independence of Bohemia. The complete suppression of religious freedom was followed by a cruel persecution of the Protestants, which roused pity and rage amongst English Puritans. A little account of the sufferings of the Bohemians was published as a supplement to Foxe's 'Book of Martyrs,'[2] and that sober antiquary, Sir Symonds D'Ewes, in his Diary, habitually styled Ferdinand II 'the bloody Emperor of Germany.'[3] The Silesian Protestants, who suffered in the same way, called forth the sympathy of English Puritans: Cromwell had a collection made for them as he did for the

[1] Sanderson, *Life of James I*, quoted by Mrs. M. A. E. Green in her *Life of Elizabeth of Bohemia*, p. 133, ed. 1909; *cf.* also *Transactions*, 3rd Series, V. 49.

[2] *The History of the Bohemian Persecution*, 1650.

[3] *Autobiography of Sir Simonds D'Ewes*, ed. by Halliwell, i. 371, 422.

Vaudois. With the Protestant princes of Transylvania also, who maintained a precarious independence between Austria and Turkey till about 1660, we carried on for some time friendly diplomatic relations.[1]

It was these persecutions which inspired Cromwell's hostility to the two branches of the Hapsburgs. 'Look,' said he to Parliament, 'how the whole House of Austria on both sides of Christendom are armed and prepared to make themselves able to destroy the whole Protestant interest!' Robert Baillie, in his theological phraseology, described the two powers as 'bloody and great supporters of Antichrist.'[2]

After the restoration of Charles II secular considerations resumed their sway over our policy, and in a few years fear of the power of France began to dominate people's minds. Under this impulse England and Austria drew nearer to each other. In 1666 the Emperor Leopold I sent his most skilful diplomatist, Count Lisola, to England to negotiate an alliance with Charles II.[3] About 1671 a négotiation was set on foot for the marriage of the widowed Duke of York with the beautiful Archduchess, Claudia Felicitas: a marriage contract was actually drawn up, but the Emperor Leopold, who was also a disconsolate widower, stepped in and married her himself.[4] In September 1680, a scheme for a defensive alliance between England and Austria was proposed; but it was too late, for by that time Charles II, having quarrelled with Parliament, was dependent on the subsidies of Louis XIV.[5]

English public opinion was divided about the desirability of an alliance with Austria. Leopold had for some years been engaged in destroying the liberties of Hungary, and in persecuting the Protestants there. When a revolt broke

[1] D. Angyul, *Geschichte der politischen Beziehungen Siebenbürgens zu England*, 1905; Firth, *Last Years of the Protectorate*, ii. 244.

[2] Carlyle's *Cromwell*, Speech xvii.; Robert Baillie, *Letters*, iii. 294.

[3] A. Pribram, *Franz von Lisola*, pp. 302–460; *Oesterreichische Staatsverträge*, i. 144–8, 158.

[4] *Ibid.*, i. 150, 158, 161; T. Brown, *Miscellanea Aulica*, 1702, pp. 65–107.

[5] Pribram, *Staatsverträge*, i. 179.

out under the leadership of Count Emeric Tekely (1678), the Whigs sympathised so strongly with the rebels that they were sometimes nicknamed Tekelites. In 1683, when the Turks and the Hungarian rebels besieged Vienna, many Whigs went so far as to wish them success. So the domestic policy of Austria weakened her abroad as well as at home. However, the misgovernment of James II, and the support which Louis XIV gave to his cause, produced the Revolution and a breach with France. Leopold had been at war with Louis for more than six months before we joined in the struggle, and an alliance naturally followed. This was the first of the three great wars in which we fought side by side with the Austrians against the French, and marks the beginning of a co-operation which lasted for about sixty years.

By the treaty of Hampton Court, on September 9, 1689, England joined the league made between the States General and the Emperor, on May 12, 1689, and the adhesion of Spain and Savoy completed the Grand Alliance.[1] The war lasted till 1697: the history of the campaigns in western Europe is narrated by Macaulay; the diplomatic history of the league is told in detail by Onno Klopp in his work on 'The Fall of the House of Stuart.' The alliance failed to attain its objects: the defection of Savoy in 1695, the military weakness of Spain, and the financial distress of England, made peace necessary. England, Holland, and Spain made peace at Ryswick on September 20, 1697; the Emperor did not sign his treaty till October 30, and bitterly complained that he had been deserted by his allies. They retorted that he left the burden of the war with France to them, and devoted his forces and his resources to fighting the Turks, whom he might have beaten sooner if he had been willing to treat his Hungarian subjects better. They complained, too, that in the negotiations for peace with France the Emperor made exaggerated demands, whilst he did not make sufficient preparations

[1] Pribram, i. 177, 185.

for carrying on the war if they were refused. He intended, they believed, to prevent an agreement and to throw the burden of continuing the war upon the English and the Dutch. 'Peace,' said one of the English negotiators, 'was never the design of the Germans, but to keep England and Holland in an expensive war, whilst they made the best market they could of their troops.'[1]

Four years after the treaty of Ryswick, war broke out again over the question of the Spanish succession. The basis of the new alliance against France was a treaty between the Emperor Leopold, William III, and the States General, signed at the Hague on September 7, 1701.[2] Article VIII of the treaty defined the object of the war. No separate peace was to be made till 'a just and reasonable satisfaction' was obtained for the Emperor, and effectual provision secured that the crowns of France and Spain should not be united. To achieve these aims the allies attempted to conquer Spain, and to establish the Archduke Charles, the Emperor's second son, on its throne. By 1711 it was evident that Spain was unconquerable. Moreover, it was not now for the interest of Europe that the attempt should succeed. For the Archduke's elder brother, the Emperor Joseph I, died in 1711, and the Archduke Charles became Emperor in his stead. The union of Austria and Spain under one monarch would have been as dangerous to Europe as the union of France and Spain—the history of the sixteenth century proved it. This fact, and weariness of the war, made the English Government desire peace.

But there was also another reason. The Emperor was an unsatisfactory ally. The troops he contributed to the common cause were always below his proper quota, his generals pursued aims of their own instead of co-operating with their allies, and once more a rebellion in Hungary prevented him from playing a more effective part in the war. Bolingbroke complained that in this war, as in the

[1] Coxe, *Shrewsbury Correspondence*, p. 360.
[2] Pribram, i. 210, 226.

previous one, the house of Austria was 'a dead weight' upon her allies.

'Bigotry,' said he, 'and its inseparable companion cruelty, as well as the tyranny and avarice of the court of Vienna, created in those days, and has maintained in ours, almost a perpetual diversion of the imperial arms from all effectual opposition to France. I speak of the troubles in Hungary. Whatever they became in their progress, they were caused originally by the usurpations and persecutions of the Emperor; and when the Hungarians were called rebels first, they were called so for no other reason than this—that they would not be slaves.' [1]

Swift, in his pamphlet on 'The Conduct of the Allies,' repeats and amplifies these criticisms.

On his part, the Emperor complained that the English Government entered into negotiations without consulting him, and made peace without adequate regard for his interests. The Austrian ambassador, Count Gallas, was ejected from England for intriguing against our Government, and the alliance ended with mutual recriminations. England and Holland made peace at Utrecht in March 1713. Austria continued the war till March 1714.[2]

The treaty of Utrecht gave Austria the Netherlands. Her acquisition of these provinces was an event of decisive importance in the relations of Austria and England. So long as they remained in the hands of a strong and friendly power they would serve as an outwork to Holland and as a bulwark against France. It was for that reason that Marlborough had fought so many campaigns in the Low Countries, and it was for that reason that it became one of the cardinal points of British policy to maintain the Austrian rule there. We did not give up that principle till 1799.

On the other hand, certain conditions were imposed upon the Austrian Government when the Netherlands were transferred to it. A line of fortresses along the border were to

[1] *Letters on the Study of History*, p. 73, *cf.* 81, 84; Swift, *Conduct of the Allies* (Prose Works, ed. Temple Scott), v. 91.

[2] Swift, *History of the Four Last Years of the Queen*, *ibid.*, x. 54, 77.

be permanently occupied by Dutch troops, and the fortifications were to be maintained at the cost of the Austrians. This was the purpose of the Barrier Treaty between Austria and Holland, signed in 1715, and guaranteed later by Great Britain. Moreover, the restrictions on the trade of the Netherlands, which had existed while they were in the hands of Spain, were to be maintained for the benefit of the Dutch now that they had passed into Austrian hands. These unjust and onerous conditions were the cause of constant friction between England, Holland, and Austria.

Another event which took place about the same time as the establishment of Austria in the Netherlands was the accession of George I. This, too, had great influence on our relations with Austria. 'The devotion of the house of Brunswick-Lüneburg to the house of Austria' has been described as 'one of its most cherished traditions.'[1] To the Emperor Leopold I, the Dukes of Hanover owed the electoral dignity, and they did not forget the obligation. At the same time, through Hanover, England was drawn deeply into German politics. In 1718 the Emperor Charles VI joined the Triple Alliance of England, France, and Holland (August 20), and Dutch and English diplomatists brought about the peace of Passarowitz between Austria and Turkey (July 21). French and English aid effected a settlement of the Emperor's quarrel with Spain, and it was to the defeat of the Spanish fleet off Cape Passaro (August 11, 1718) that he owed the conquest of Sicily.[2] Six years later there came a breach between the Emperor and his allies. By the foundation of the Ostend Company in 1724, the Emperor threatened the Anglo-Dutch monopoly of the commerce of the East Indies, and both powers put pressure upon him to cancel its charter. He broke with the English and Dutch, and threw himself into the arms of Spain by making the treaty of Vienna (May 1, 1725), though he drew back when Spain

[1] See A. W. Ward, *Great Britain and Hanover*, 1899, pp. 30, 83, 108, 112, 114.

[2] Mahon, *History of England*, i. 306, 315, 319, 352.

went to war with us and attacked Gibraltar. He even entered into communication with the Jacobites, and in 1727 Baron Palm, the Austrian resident, was ordered to leave England.[1]

This breach between England and Austria was healed by the second treaty of Vienna (March 16, 1731). The Emperor agreed to suppress the Ostend Company: England guaranteed the arrangement for the succession of his daughter, Maria Theresa, generally known as the Pragmatic Sanction.[2] It seems surprising that Walpole should have consented to this guarantee. He objected to entangling England in continental quarrels, and prevented George II from engaging us in the war of the Polish succession. As no British interest was involved in the question of the indivisibility of the Austrian dominions, it must be assumed that the pledge was dictated either by Hanoverian interests, or else by the belief that an undivided Austria was necessary in order to counterbalance the power of France.[3]

In December 1740, when Frederick the Great invaded Silesia, England had been for a year engaged in hostilities with Spain, though war with France had not been declared. It was the intervention of France, and the attempt to partition Austria, which obliged us to take part in the continental war. Once more the necessity of preventing the Netherlands from falling into the hands of France determined our action. In addition to this, our guarantee of the Pragmatic Sanction pledged us to support the claim of Maria Theresa to the whole of the Austrian dominions.[4]

Walpole accordingly promised to assist the Queen of Hungary with a subsidy of £300,000 a year and an army of 12,000 men.[5] He was drawn into the war with

[1] On the Ostend Company, see G. B. Herz, 'England and the Ostend Company,' *Eng. Hist. Rev.* xxii. 255. On the dealings of the Emperor with the Jacobites, see Ward, p. 126; Leadam, *Political History of England*, vol. ix. p. 328; on Palm, see Mahon, ii. 103.

[2] Leadam, pp. 330, 338; Pribram, i. 491.

[3] Ward, pp. 118, 150, 135, 140.

[4] Mahon, ii. 149.

[5] Mahon, iii. 80.

great reluctance,[1] and we engaged in it, at first, merely as auxiliaries.[2]

After Walpole's fall, Parliament went a step further: in 1742 Maria Theresa was voted a subsidy of £500,000, and it was resolved to send an army of 16,000 men to Flanders, where it remained idle throughout the campaign of that year.[3] In 1743 our troops were increased; 6000 Hessians and 16,000 Hanoverians were taken into our pay.[4] At the head of a mixed army of English, Hanoverians, Dutch, and Austrians, George II defeated the French at Dettingen, on June 27;[5] and three months later, at Worms, a treaty was made between England, Austria, and the King of Sardinia for joint action.[6] But it was not till 1744 that France declared war against England (March 4–15, 1744).[7]

For the rest of the war the military action of England on the Continent was confined to the defence of the Netherlands: a task so unsuccessfully performed that we lost three considerable battles (Fontenoy, May 11, 1745; Roucoux, October 11, 1746; and Lauffeld, July 2, 1747), and could not prevent the Netherlands from being practically conquered, and the war carried into Holland.

English policy had throughout endeavoured to persuade Maria Theresa to sacrifice a part or even the whole of Silesia in order to effect a compromise with Prussia.[8] That object was finally effected by the treaty of Dresden in 1745[9] (Dec. 25). From that date all the efforts of Maria Theresa were directed rather to the conquest of fresh acquisitions in Italy than to the defence of her existing possessions,[10] and she was convinced that English subsidies ought to be furnished for that purpose to all German princes who had troops for hire.[11] Hence the conclusion of the preliminaries of a peace between England, Holland, and

[1] Lecky, *History of England*, i. 393.
[2] Mahon, iii. 82.
[3] Mahon, iii. 125.
[4] Mahon, iii. 136.
[5] Mahon, iii. 144; Lecky, i. 405.
[6] Mahon, iii. 154; Pribram, i. 597.
[7] Mahon, iii. 160.
[8] Lecky, i. 393, 402, 405.
[9] Mahon, iii. 199; Lecky, i. 419.
[10] Mahon, iii. 200, 336.
[11] Mahon, iii. 190.

France (April 30, 1748) was extremely unwelcome to her, and was received with bitter reproaches.[1]

It was this disappointment which brought about the termination of the old alliance with England and the foundation of the new alliance with France: the breach was the result of the discovery that there was no real identity between the European interests of England and Austria.

The one aim of Maria Theresa after the peace of 1748 was the recovery of Silesia from Prussia, and finding no support from England for that purpose she turned to France. England, on the other hand, anxious for the *status quo* in Germany and the security of Hanover, turned to Prussia. The treaty of Westminster, between England and Prussia, on January 16, 1756, was designed to keep foreign troops out of Germany.[2] It had precisely the opposite result, for it led to the conclusion of the treaty of Versailles, between France and Austria, on May 1, 1756, and thus produced the Seven Years War. During that war, England and Austria were ranged in opposite camps; but there was neither a formal declaration of hostilities when it began, nor a formal treaty of peace when it ended.

During the thirty years following the end of the Seven Years War the relations between England and Austria were cold and unfriendly. One reason was that Austria, in the language of an English diplomatist, was 'cemented to France,'[3] the other a change in the character of Austrian policy. For about a century it had been generally directed to the maintenance of the existing balance of power in Europe; now it became aggressive rather than conservative. Having failed to regain Silesia, Maria Theresa and Joseph II devoted their energies to obtaining compensation for its loss in some other quarter—either in Turkey, or Poland,

[1] Mahon, iii. 345–7; Lecky, i. 427–9; Coxe, iii. 336, 340; see the comments of the Duc de Broglie, *La Paix d'Aix la Chapelle*, pp. 121, 289.

[2] Mahon, iv. 78; Waddington, *Louis XV et le Renversement des Alliances*, pp. 127–52, 221, 227, 285, 295, 233; Pribram, ii. 129.

[3] Malmesbury, *Diaries*, ii. 219.

or Germany itself. By the first partition of Poland in 1772, Austria acquired Galicia with about 2,600,000 new subjects.

Next came the acquisition of the Bukovina, which then formed part of the principality of Moldavia. Since 1768, Turkey had been at war with Russia and had been badly beaten; at the request of the Turks, Austria undertook to mediate, and, as a reward for preventing the dismemberment of Turkey, adjudged herself this little accession of territory.[1]

In 1779 the Elector of Bavaria—Maximilian Joseph, the last of the Wittelsbach line—died. Joseph II trumped up a worthless legal claim, and intimidated the Elector Palatine, Charles Theodore, who was the lawful heir, into signing a treaty ceding Austria about half of Bavaria. Frederick the Great, anxious to prevent the aggrandisement of Austria, intervened by invading Bohemia, and the mediation of France and Russia resulted in the treaty of Teschen. All Austria gained was about forty miles of the Tyrol—the district round Braunau. In this affair the influence of English diplomacy was exerted on the side of Bavaria, but we were too deeply engaged by the war in America to possess much weight in continental politics.[2]

Joseph's intention had been to induce the Elector Charles Theodore to exchange the rest of his Bavarian heritage for the Austrian Netherlands. In 1785 he returned to this scheme, offering France Namur and Luxemburg as the price of her consent. The exchange was strongly opposed by the English Government.

'England and Holland,' wrote Sir James Harris, our ambassador at the Hague, 'gave the Low Countries, by the peace of Utrecht, to the House of Austria, to serve as a barrier against

[1] See Sorel, *La Question d'Orient au XVIII siècle*, pp. 109, 140, 176, 281, 297.

[2] Temperley, *Frederick the Great and the Kaiser Joseph II*, 1915, pp. 64, 75, 98, 106, 189, 209.

France; and . . . they cannot be alienated without the consent of these powers.'

Frederick the Great was also strongly opposed to the transference of Bavaria to Austria. A bargain between England and Prussia, estranged ever since 1762, seemed now the natural course.

'France,' wrote Sir James Harris in a memorandum for the Cabinet, 'must on no account have the Low Countries. If Prussia will *bona fide* exert itself to prevent that, England will use similar exertions to prevent Austria obtaining Bavaria.' [1]

To stop the exchange Frederick formed the league of German princes known as the Fürstenbund, to which George III, as Elector of Hanover, from the first adhered (July 23, 1785), and maintained his adhesion in spite of strong remonstrances from Austria and Russia.[2] But Frederick was not willing to make a definite alliance with England, and there was also considerable opposition to such an alliance in the English Cabinet. The Duke of Leeds, who was Foreign Secretary from 1784 to 1791, had made the restoration of the old connexion between England and Austria the first article in his programme. He wrote on July 24, 1786:

'My own manner of thinking with respect to Austria and Prussia remains, and probably ever will remain, unshaken; the first ought to be the perpetual as it is the natural ally of England; the second can, I apprehend, be but an occasional one.' [3]

The occasion came after Frederick the Great's death. In 1787, Prussia and England intervened in Holland to restore the authority of the Prince of Orange, and to suppress the democratic party, which, supported by France, was endeavouring to overthrow him. This intervention was

[1] *Political Memoranda of the Duke of Leeds*, p. 113.
[2] *Ibid.*, pp. 113–6; Stanhope, *Life of Pitt*, i. 479.
[3] Malmesbury, *Diaries*, ii. 211.

followed in 1788 by the formation of the Triple Alliance between England, Prussia, and Holland, which for the next two or three years dominated Europe.

Pitt employed the alliance to maintain the existing balance of power both in eastern and western Europe, and exercised with that object a restraining influence on the ambitious projects of his Prussian ally, Frederick William II. In the East the allies intervened in the war then in progress between Turkey, Austria, and Russia. Their mediation succeeded in detaching Austria from Russia, and induced Austria to abandon the attempt to conquer Moldavia and Wallachia, and to make a separate peace with Turkey at Sistova (August 4, 1791). All that Austria acquired was old Orsova and a small accession on the frontier of Croatia. Keith, the English ambassador at Vienna, played a prominent part in effecting the settlement.

One reason which led Austria to give way was the revolt of the Netherlands. Joseph II, by his ecclesiastical, educational, and legal reforms, raised great opposition amongst his Belgian subjects, ending in 1789 in a general rebellion, the expulsion of the Austrian troops, and a declaration of independence. Prussia proposed to recognise the independence of Belgium. England, afraid that a Belgian republic would fall under the influence of France, desired to effect a compromise between the Emperor and the Belgians, on condition that he restored the constitutional rights he had violated.

'The King's ministers,' wrote Lord Auckland, 'are unanimously of opinion, that we ought to contribute to restoring to the court of Vienna her revolted provinces, so far limited, however, as that their constitution and privileges shall be secured to them, against any encroachment of their Sovereign, by the guarantee of Great Britain and her allies.' [1]

The treaty signed at the Hague on December 10, 1790, between the Emperor Leopold II and the three powers

[1] *Memoirs and Correspondence of Sir R. M. Keith*, ii. 209, 266, 282; Rose, *Pitt and National Revival*, pp. 513–20, 534.

forming the Triple Alliance, practically secured a settlement on this basis, although there was considerable disputing about its execution.[1]

Thus during the thirty years which elapsed between the end of the Seven Years War and the great war with France, England and Austria were usually in opposite camps: our policy was frequently devoted to thwarting Austrian policy. Yet we never came into direct hostility with Austria, because the causes of dispute between the two powers did not usually touch the vital interests of either. On the other hand, the political aims of England and Austria were too dissimilar to permit the restoration of the old connexion. Only a complete change in the European situation could bring about an alliance between them, and even then their co-operation was not likely to be very harmonious.

The French Revolution produced the new situation and brought England once more into alliance with Austria. War between France, Austria, and Prussia began in April 1792, but for the first nine months of it England remained firmly neutral. When the French, after conquering Belgium, threatened to invade Holland, our treaties and our interests bound us to intervene. We began to arm in December 1792, and France declared war against England on February 1, 1793. Then on August 30, 1793, England signed an alliance with Holland, and sent the Duke of York with a British army to defend Holland, and to assist in the recovery of the Netherlands. On May 4, 1795, a convention was signed by which England guaranteed a loan of £4,600,000, raised in London for Austria, and other conventions and treaties followed in succeeding years.[2] Our military co-operation with Austria was not fortunate. On more than one occasion the Austrians failed to support the British troops in battle, and the greatest bitterness against them sprang up in our army. Austria was but half-hearted in defending the Belgian provinces, and in July 1794 withdrew her

[1] Pribram, ii. 171–94.

[2] Pribram, ii. 217, 235, 275.

troops altogether from that region.[1] Above all, the divergence of the political objects of the Governments prevented combined action. Thugut, the Austrian foreign minister, still pressed the project of exchanging the Netherlands for Bavaria, though England, in Grenville's words, continued 'to regard the possession of those provinces by Austria as constituting the principal link of connexion between the two crowns,' and even when they were lost would listen to no other arrangement. George III was very decided against the exchange. 'This would destroy every real utility of Austria to Britain; but what is much worse, be disposing of the country of a prince because less able to defend himself. This is so immoral and unjustifiable a proceeding that I cannot but in the outset protest against it.'[2]

The chief obstacle to the vigorous prosecution of the war with France was the struggle between Austria, Prussia, and Russia for the spoils of Poland. Excluded in 1792 from the second partition, Austria was the more determined to have a fair share in the next. By the third partition in 1795 she gained Polish lands with a population of 1,100,000, and obtained the consent of Russia to further compensations in France and Italy if they could be won.[3] The coalition broke up in 1795, when Prussia, Spain, and Sweden made peace with France. Austria fought on till 1797, and then made peace at Campo Formio, receiving Venice and Dalmatia as compensation for the loss of Lombardy (October 1797).

A second coalition was formed in 1799. Austrian and Russian forces in 1799 drove the French out of northern Italy; while the English navy, under Nelson, helped to expel them from southern Italy, and cooped up Napoleon in Egypt by destroying his fleet. But it was not easy for England to come to an understanding with Austria: there were disputes about the repayment of subsidies granted during

[1] Fortescue, *History of the British Army*, iv. 271, 290.
[2] *Dropmore Papers*, iii. 173; Pribram, ii. 270.
[3] Sorel, *L'Europe et la Revolution Française*, iv. 193, 447.

the last war and about subsidies to be given in the present one. As before, there was no real agreement about the aims of the alliance.[1] Pitt wished to overthrow the existing government in France and restore the Bourbons; Austria was indifferent to the principle of legitimacy. Pitt wished to re-establish the Prince of Orange in Holland, and to strengthen it by the addition of the Belgian provinces in order to make it a more effectual barrier against France. Austria was desirous enough to recover the lost provinces, but meant to employ them to compensate the Elector of Bavaria for the cession of Bavaria to Austria. In Italy, Pitt was willing to agree to an extension of the Austrian dominions, but wished to reinstate the King of Sardinia and to strengthen that kingdom as another barrier against France by adding Genoa. Austria proposed to annex the whole of Piedmont, and also the states of the Church, and other territory. The last proposal roused the wrath of our foreign secretary, Lord Grenville. He wrote to Pitt: 'I do not want to offer a Quixotic opposition to the views of Austria, but I do want to be able to say in this case, with as clear a heart as in those of Poland and Venice, that this Government is too great to need such villainies and too proud to share in them.'[2] Pitt could hardly take so uncompromising a line. Minto, our ambassador at Vienna, warned him that the Austrian Government would probably make the acquisition of Piedmont the pivot on which the whole system would hereafter turn.[3] No treaty between England and Austria was signed till June 20, 1800—a week after the battle of Marengo—though our navy assisted the Austrians in the siege of Genoa and in other operations. By that treaty England was to advance to Austria a subsidy of £2,000,000, and Austria was to content herself with the return of the parts of

[1] Sorel, v. 403; vi. 37; *Dropmore Papers*, v. 235, 331.

[2] Rose, *Pitt and Napoleon*, p. 265.

[3] Rose, *William Pitt*, ii. 371, 378; *cf.* Fyffe, *Modern Europe*, ed. 1895, pp. 125–8. For an account of Minto's mission and extracts from his correspondence, see *Life and Letters of the First Earl of Minto*, iii. 68–223, and especially pp. 95, 132.

the duchy of Milan which Piedmont had acquired in the eighteenth century, while Piedmont was to be compensated from the dominions of Genoa. Lucca, the Valtelline, and the Legations were also to go to Austria.[1] However, the defeat of the Austrians at Hohenlinden, on December 3, 1800, made the treaty a dead letter, and on February 9, 1801, Austria made peace with France at Luneville. England fought for a year longer, and then signed the treaty of Amiens (March 27, 1802).

Hostilities between England and France recommenced on May 18, 1803, but the third coalition was not formed till two years later. Austria had at first shown no inclination to take up arms again. Sir Arthur Paget, our ambassador at Vienna, complained bitterly of the apathy and indifference of Austria to the struggle against Napoleon and of the timidity of the Emperor's ministers. To Count Cobenzl, the chief minister, he had a violent dislike, declaring 'I never witnessed the display of so much ignorance, weakness, and pusillanimity on the part of any individual calling himself a minister.'[2] Even the murder of the Duke of Enghien called forth no protest from Austria, and Napoleon's assumption of the imperial title only led the Emperor Francis to assume in reply the title of Hereditary Emperor of Austria (August 11, 1804). But when Napoleon declared himself King of Italy (May 26, 1805), and annexed Genoa (June 4, 1805), Austria prepared for war. By this time England had made an alliance with Russia against France (April 11, 1805); to this treaty Austria gave its adhesion (August 9), and so the third coalition came into being.[3] We agreed to pay Austria a subsidy of £2,750,000 for the year 1805.

[1] Pribram, ii. 382.

[2] For an account of his mission, see *The Paget Papers*, ed. Sir Augustus Paget, 1896, ii. 1–277. 'His despatches are by no means deficient in ability; but an arrogant temper and offensive manners seem to have made him generally obnoxious at every foreign court to which he was accredited' (Fitzpatrick, Introduction to vol. vii. of the *Dropmore Papers*, p. 49).

[3] For the negotiations, see J. H. Rose, *Select Despatches relating to the Third Coalition*, 1904; and Pribram, ii. 407, 439, 446.

The war began in September, and was over in three months. General Mack surrendered at Ulm on October 20—the day before the battle of Trafalgar; Austerlitz was fought on December 2, and peace was signed at Presburg on December 26, 1805. Our Government, which had sent 25,000 men to the Weser to recover Hanover, was obliged to withdraw them in a hurry.[1]

Even after the treaty of Presburg, England did not give up the hope of some day renewing the alliance with Austria against Napoleon. When Fox became Foreign Secretary he sent his friend Robert Adair to Vienna as Ambassador. Adair began by attempting to maintain cordial relations between Austria and Russia, and restore a good understanding between Austria and Prussia, with a view to their future co-operation against France. He was instructed by Fox 'to do nothing which should induce Austria, against her better judgment, to embark in a contest with France. At his first interview with the Emperor, he explained the policy of the new Government.'

'I told him explicitly that the system of forcing or persuading foreign powers, by means of subsidies, to enter into wars against their own conception of their interests, if ever it had been acted upon by England, was now effectually renounced; but that at the same time—and particularly with reference to the present situation of Austria—if she should feel herself in real danger from fresh exactions and injuries on the part of France, we were not the less determined to assist her in a defensive war.'

To Count Stadion, about a month later, he defined the object the Government sought in the negotiations then proceeding with France.

'I assured him that they never would depart from the old English rule which from the earliest times had governed the system of our continental alliances, and which had the balance of power for its object; and that although we had no prospect, for the present, of making that balance as even in the scale as

[1] Fortescue, v. 285–300.

might be wished, still, we should never make a peace that did not provide a foundation for one, leaving it to time and events to bring it to something like an equipoise.' [1]

In September 1806, war broke out between Prussia and France. Adair hoped that Austria would take part, but the disaster of Jena (Oct. 14) prevented it. Russia's intervention to assist Prussia, and the hard-fought battles of Pultusk (Dec. 26, 1806), and Eylau (Feb. 8, 1807), revived his hopes; but before Austria was ready to move, the treaty of Tilsit ended the war (July 1807). 'Austria,' wrote Canning, 'was, as usual, just ten days too late in her determination, or the world might have been saved.' [2] Napoleon then obliged Austria to attempt to mediate between France and England, and when the English Government rejected the terms proffered, to break with it altogether. On February 18, 1808, Austria was obliged to give in her adhesion to the continental blockade,[3] and for the next eighteen months, was nominally at war with England. At the beginning of April 1809, Austria took up arms against Napoleon again, but without any previous alliance with us. Negotiations for that purpose had indeed commenced at the end of 1808, but Austria asked for such large subsidies that it was impossible to grant them. Canning justly pointed out that the expense of the Peninsular War, and the amount of specie required there, rendered compliance impossible. Instead of the £6,500,000 Austria wanted for the year 1809 only £1,000,000 could be provided. A preliminary treaty with Austria was signed on April 24, but the campaign closed on July 12, and peace was signed at Schönbrunn on October 14. It obliged Austria to adhere to the Franco-Russian league and sever relations with England.[4]

Before the war began Napoleon had declared that it was impossible to harm England without first obliging

[1] Adair, *Historical Memoir of a Mission to the Court of Vienna*, 1806 (1844), pp. 13, 17, 163.
[2] Rose, *Napoleon*, ii. 126.
[3] Pribram, ii. 495–501.
[4] Pribram, ii. 517.

Austria to disarm.[1] He had now not only disarmed Austria, but by his marriage with Maria Louisa (April 1810) forced her to become his ally. England stood alone; and to force her to submission Napoleon annexed Holland (July 1810), strengthened the continental blockade, and prepared everything for a great attack on us in 1812. However, 1812 brought the breach with Russia, and the year closed with the retreat from Moscow. A new coalition was formed in 1813: its basis was the treaty of Kalisch between Russia and Prussia on February 28, 1813, followed on June 14 and 15 by the two treaties of Reichenbach, by which England promised subsidies to Russia and Prussia, and agreed with both on the general lines of a European settlement.

Meanwhile, Austria took up the position of a mediator between Napoleon and the allies: at first, perhaps, sincerely; afterwards as a mask for military preparations. In August she joined the allies, and on October 3, 1813, signed at Teplitz a treaty with Great Britain. One stipulation was that England should pay Austria a subsidy of a million; another that Austria should be restored to the territorial position it held in 1805. No peace was to be concluded which did not secure the complete independence of Spain, Holland, and Sicily.[2]

One obstacle to an agreement between the two Governments had been the suspicion that Austria was not in earnest in the struggle against Napoleon, and the belief that Metternich was entirely French in his leanings. Our ambassador, Lord Aberdeen, did great service in dispelling the suspicions of the English ministry:

'Put yourself in Metternich's place,' he said. 'He had an Austrian game as well as an European one to play, and to play which was his first duty. To enter into the war with most inefficient means—to deliver himself, even if successful, into the hands of Russia and Prussia—could not be wise in the minister of the weakened but still mighty empire. He has come forward as

[1] Sorel, vii. 331.
[2] Pribram, ii. 534–50; Sorel, viii. 188

the head of the German body should appear—the leading power; the effect has been decisive.'[1]

But while Metternich was a good Austrian, he did not, like the rapacious and unscrupulous Thugut, entirely sacrifice European interests to dynastic ones, so that real co-operation between England and Austria was possible. The good understanding which Aberdeen had established continued after Castlereagh joined the allied head-quarters. He shared with Metternich a certain suspicion of the designs of the Emperor Alexander; but Metternich was more anxious than Castlereagh to come to terms with Napoleon. Negotiation failed, and by the treaty of Chaumont (March 1–9, 1814) the allies bound themselves to carry on the war till Napoleon was overthrown, and to co-operate after its conclusion in order to maintain the settlement which might be effected.

In the differences which arose amongst the allies after Napoleon's fall, England and Austria were not in complete agreement, but in the end they usually acted together. One aim was the establishment of certain barriers against future aggressions of France. For that purpose the Austrian Netherlands were transferred to the Prince of Orange, to form the kingdom of the United Netherlands; and while Austria regained possession of Lombardy and Venetia, the King of Sardinia was restored to his dominions, which were strengthened by the addition of Genoa. For that purpose, too, Prussia was established in the Rhine provinces.

Another common aim was the establishment of what Castlereagh called 'a satisfactory system of balance in Europe.'

'I wish,' said he, 'to direct my main efforts to secure an equilibrium in Europe, to which object, so far as principle will permit, I wish to make all local points subordinate.'[2]

[1] *The Earl of Aberdeen*, by Sir A Gordon, 1893, p. 47.
[2] *Castlereagh Correspondence*, x. 173.

Accordingly, in the quarrel over the disposal of Poland and Saxony, England and Austria prevented Russia, by the treaty of January 3, 1815, from obtaining the whole of Poland, and obliged Prussia to content herself with half Saxony. Again, in the dispute about the boundaries of France, England and Russia, by winning over Austria, prevented Prussia and the smaller German states from annexing Alsace and Lorraine.

In questions of the internal organisation of Europe, as well as in territorial questions, there was generally agreement between England and Austria. England was more determined on the restoration of the Bourbons in France than the other great powers were, and secured here, too, the support of Austria. Both Castlereagh and Metternich were opposed to anything that tended towards democracy, and especially to setting up constitutional governments in Italy. Castlereagh spoke with dread of 'all the new constitutions which now menace the world with fresh convulsions,' and thought it necessary to retard the operation of 'this most hazardous principle which is now abroad.' [1] England, though not directly concerned, supported the Austrian scheme for the reorganisation of Germany against that of Prussia, and Castlereagh held that the weak confederation which replaced the old empire would be by its weakness a guarantee for European peace.

'France,' said he, 'need never dread a Germanic league, because it is in its nature inoffensive, and there is no reason to fear that the union between Austria and Prussia will be such as to endanger the liberties of other states.' [2]

Neither Castlereagh nor Metternich doubted the right of the great powers to transfer peoples from one master to another in the name of the equilibrium of Europe, or allowed for the desire of fragments of the same nation to unite into a state. That was the weak point of the settlement of 1815, and the weak point of the Anglo-Austrian alliance. It

[1] *Castlereagh Correspondence*, x. 10, 18. [2] *Ibid.*, x. 175.

rested on the temporary agreement of their rulers about certain political principles, and on their temporary opposition to a third state. If a change took place in the political ideas of the governing classes in England—particularly if it was accompanied by a change in the attitude of England towards France—Austria and England would drift apart.

To trace in detail the process by which the allies of 1815 became the enemies of 1914 would take too long: it must be briefly summarised. England and Austria were driven apart by their different conceptions of the rights of man and the rights of nations—by their opposite views on the question of self-government as opposed to absolutism, and later still on the rights of nationalities.

The breach between England and Austria revealed itself at the Congress of Verona in 1822, when the other great powers wished for collective intervention in Spain, and England refused to agree to it. Again, in the question of the recognition of the independence of the South American colonies of Spain, on the question of the Portuguese constitution, and on the question of the Greek revolt against Turkey, the policy of England clashed with that of Austria. Canning represented one, Metternich the other: they recognised that they were champions of antagonistic systems. 'I believe him,' wrote Canning of Metternich, 'to be the greatest rogue and liar on the Continent, perhaps in the civilised world.' Metternich, on his part, described Canning as 'the scourge of England,' as a man who 'had flashed like a malevolent meteor through Europe.'[1]

In 1830, France overthrew the Bourbons, placed Louis Philippe on the throne, and, with the co-operation of England, established the independence of Belgium. Austria and Russia would have intervened to help the King of Holland against his subjects, but the insurrection of Poland tied the Czar's hands, and Metternich had to accept the policy of the western powers, much against his

[1] Temperley, *Life of Canning*, pp. 204, 212.

will.[1] A little later, England and France again co-operated to establish constitutional government in Spain and Portugal, by the treaty between England, France, Spain, and Portugal, known as the Quadruple Alliance (April 22, 1834). 'I should like to see Metternich's face when he reads our treaty,' wrote its author, Lord Palmerston.[2] For between Palmerston and Metternich a rivalry had arisen like that between Canning and Metternich—a feeling which the Englishman expressed with frankness, and the other pretended to be quite a mistaken impression.[3]

Palmerston became Foreign Secretary for the third time in 1846, and held office till 1851. During this period the relations between England and Austria grew still more strained. In November 1846, England and France protested against the Austrian annexation of Cracow, which extinguished the last vestige of Polish freedom.[4] Next year Palmerston's diplomacy prevented Austrian intervention in the quarrel between the Catholic and Protestant cantons, and protected the independence of Switzerland.[5] In Italian affairs the conflict between English and Austrian policy was continuous. During his first ministry, Palmerston had encouraged Naples and Sardinia to resist the scheme for the federation of the Italian states under Austrian headship. In 1847 he took the decisive step of sending Lord Minto on a special mission to Italy, with instructions to encourage the King of Sardinia, the Grand-duke of Tuscany, the Pope, and the King of Naples to reform their methods of government and grant constitutions to their subjects, and an implied promise to support them against Austrian intervention.[6] In February 1848, he warned Metternich, through the British ambassador at Vienna, against Austrian

[1] Bourgeois, *Manuel Historique de Politique Étrangère*, iii. 79; Metternich, *Memoirs*, v. 37–51. [2] Ashley, *Life of Palmerston*, i. 298, 344.

[3] Ashley, i. 309, 168, 453, ii. 87; Metternich, *Memoirs*, v. 643. Aberdeen, who preceded and followed Palmerston as Foreign Secretary, was generally regarded as Austrian in his sympathies (Ashley, i. 168; ii. 99).

[4] Ashley, ii. 31. [5] *Ibid.*, ii. 5–10.

[6] *Ibid.*, i. 295, 299, 326; ii. 12, 43, 56, 83.

interference in the internal affairs of the Italian states.[1] In the same month came the Revolution in France; then the fall of Metternich, and the insurrections in Lombardy and all over Italy. During the struggle, the aim of Palmerston was, first, to persuade Austria by diplomatic pressure to give up Lombardy and part, at least, of Venetia; next to secure better terms for the defeated King of Sardinia; finally, to induce Austria to treat the Italian rebels with magnanimity and humanity. He protested against the executions and floggings which disgraced the victory of the Austrians, telling our ambassador at Vienna to express 'openly and decidedly the disgust which such proceedings excite in the public mind in this country.'[2]

In the case of Hungary, English sympathies were on the side of the insurgents, as they had been in the days of Charles II and Queen Anne, though from rather different motives. Palmerston first endeavoured to mediate, then urged the restoration of the Hungarian constitution; finally protected, in conjunction with France, the Hungarian refugees in Turkey against the demands of Austria and Russia for their extradition. When Kossuth came to England it was with difficulty that Palmerston was prevented by his colleagues from receiving the Hungarian leader. When Marshal Haynau came, and was mobbed by Barclay and Perkins's draymen, Palmerston explained to the indignant Queen that the Marshal was 'a great moral criminal' and deserved all he got.[3]

These incidents naturally produced a strong and bitter feeling against England.[4] Yet Palmerston protested that

[1] Ashley, ii. 63.

[2] *Ibid.*, ii. 106, 122.

[3] Ashley, ii. 122, 169, 183; *Letters of Queen Victoria*, ii. 267. There is a street-song of the period, entitled 'General Haynau,' describing the incident. He was mobbed, it says:

> 'To show how we loved such a brute,
> Who women flogged and men did shoot,
> For trying tyranny to uproot.'

[4] The English Court was much afflicted by the ill-feeling which manifested itself in various ways on the part of the Austrian Government, and blamed Palmerston for its existence. Nevertheless, the Queen was in no way disposed to abandon the defence of constitutionalism in order

he had no enmity to Austria. He made a distinction. In Italy, Austria was an evil. 'The real fact is that the Austrians have no business in Italy, and have no real right there at all.' In Europe, Austria was a necessity. 'I hold a great and powerful Austrian empire north of the Alps to be of the utmost importance for the general interests of Europe.'[1] His reason for desiring the maintenance of a strong Austria north of the Alps was simply that he attached value 'to the maintenance of a balance of power in Europe,' and regarded Austria 'as the pivot of the balance of power in Europe.'[2]

This belief in the necessity of maintaining the balance of power, and in the value of Austria for that purpose, represented the traditions of our eighteenth-century policy. It was shared by most English statesmen, and from time to time it brought England and Austria again into alliance. For instance, in 1840, by the Quadruple Alliance of July 5, England, Austria, Russia, and Prussia agreed to settle the questions at issue between the Sultan and the Pacha of Egypt, and to determine the limits of the Pacha's authority and territory. The alliance was directed not only against Mehemet Ali, but against Louis Philippe, whose Government was assuming the right to decide the possession of Syria without the concurrence of the four powers. It put an end to the *entente cordiale* between England and France, which had existed for the last ten years, and it might have produced a French attack on Austria, against which England would have been bound to support Austria.[3]

Again, in 1854, during the Crimean War, Austria joined

to please the absolutist powers. She wrote to Lord Derby on March 12, 1852: 'The despatches from Prince Schwartzenberg to Count Buol are satisfactory in one sense, as showing a readiness to return to the English alliance, but unfortunately only under the supposition that we would make war upon liberty together; they exhibit a profound ignorance of this country. The Queen is quite sure that Lord Derby will know how to accept all that is favourable in the Austrian overtures without letting it be supposed that we could for a moment think of joining in the policy pursued at this moment by the great Continental Powers' (*Letters of Queen Victoria*, ii. 380).

[1] Ashley, ii. 83, 87, 88, 91, 371.

[2] Ashley, ii. 64, 82.

[3] Ashley, i. 346, 382.

the western powers in attempting to mediate between Russia and Turkey, occupied the Danubian principalities as long as hostilities lasted, and pledged herself by the treaty of December 2, 1854, to armed co-operation with England and France in case Russia rejected certain terms of peace agreed upon with them. But next year Austria returned to neutrality, and her later policy favoured Russia rather than the allies.[1]

By the middle of the nineteenth century it was only some agreement in their views on the Eastern Question that still had power to draw England and Austria together. In the Crimean War the avowed object of both was, in Palmerston's words, 'the defence of the Turkish Empire and the preservation of the balance of power in Europe.'[2] But in reality they only agreed in one of the two objects—that is, in seeking to prevent the growth of the Russian power. Their agreement as to Turkey could not be permanent because their ulterior aims were different. They agreed to keep the sick man alive a little longer, but Austria looked forward to a partition of his estate, in which she hoped to secure the lion's share, while English policy did not look so far ahead. We were clear that it was necessary for the present to maintain the integrity of Turkey, but that was all.

The idea that the Christian races inhabiting Turkey were the rightful heirs of the Turkish state crossed Palmerston's mind, but he rejected it as an impossibility.

'There are no sufficient Christian elements as yet for a Christian state in European Turkey capable of performing its functions as a component part of the European system. The Greeks are a small minority, and could not be the governing race. The Sclavonians, who are the majority, do not possess the conditions necessary for becoming the bones and sinews of a new state. A reconstruction of Turkey means neither more nor less than its subjection to Russia.'[3]

[1] Ashley, ii. 276, 288, 299, 311, 316, 324; Fyffe, *Modern Europe*, pp. 838, 852; Bourgeois, iii. 392, 403; Walpole, v. 90, 101, 129, 135.

[2] Ashley, ii. 288.

[3] Ashley, i. 355, 361; ii. 287.

This view explains the difference between British policy with regard to the Italian Question and British policy with regard to the Eastern Question. We accepted the national principle south of the Alps, and rejected it on the Danube. When Englishmen arrived at the conclusion that the same principles applied on the Danube and the Po, and that Slavs had a right to be governed by Slavs, it was clear that any agreement between England and Austria, as to the settlement of the Eastern Question, would come to an end; but it took fifty years to convince us that the Slavs could govern themselves.

After the end of the Crimean War the old antagonism between England and Austria reappeared. On April 26, 1859, war broke out between Sardinia, aided by France, and Austria. At that time Lord Malmesbury had been Foreign Secretary for about a year (February 1858 to June 1859). He was reported to be strongly Austrian in his sympathies. His policy was rigid neutrality in the quarrel; his panacea 'the strict and even pedantic observance' of the treaties of 1815; but while he was laboriously mediating, Austria lost patience and attacked Piedmont.[1] Bernstorff, the Prussian ambassador, had predicted that 'the statesmanlike opinion which lays weight on the maintenance of the balance of power would be victorious over the national sympathies entertained by a large section of the English people.'[2] He judged wrongly. The English Court was pro-Austrian, the nation generally pro-Italian. Even Malmesbury had to admit that. On May 29, he wrote in his Diary:

'The Queen and Prince feel very strongly the defeat of the Austrians, and are anxious to take their part; but I told her Majesty that was quite impossible: the country would not go to war even in support of Italian independence, and there would not be ten men in the House of Commons who would do so on behalf of Austria.'[3]

[1] Walpole, *History of Twenty-five Years*, i. 24.
[2] Ringhoffer, *The Bernstorff Papers*, ii. 74.
[3] *Memoirs of an Ex-Minister*, pp. 457, 488.

This was clearly shown by the event: a week (June 11) after the battle of Magenta (June 4), Lord Derby's Government was overthrown, largely because it was regarded as too favourable to Austria.[1]

The history of the Russell-Palmerston Government which followed, and of its efforts to promote the union of Italy, need not be retold here. It naturally made the relations of Great Britain with Austria still more strained. The Austro-Prussian Alliance against Denmark made matters worse, and at one moment Palmerston threatened an attack on the Austrian fleet. In the spring of 1866, it became clear that the allies had fallen out with each other, and that war between Austria and Prussia was only a question of months. Queen Victoria was pro-Austrian: she sent Russell a memorandum in which she clearly proposed interference by force against Prussian designs in the duchies. Russell at first strongly objected: afterwards he thought it might be done on certain conditions. 'Austria,' said he, 'is wrong in Italy, but right in Germany.' If therefore Austria, for a few million sterling, would sell Venetia to Italy, England might 'give her moral, diplomatic, and, if necessary, material, aid in her quarrel in Schleswig-Holstein.' Russell's ingenious scheme was futile: his Government fell just at the

[1] Mr. E. A. Freeman's Essay on Frederick Barbarossa ends with a passage illustrating the feelings of English Liberals in 1861, and the historian's own view of the Austrian state. 'One of the very strangest notions is that "Austria" is an ancient, venerable, conservative power. History pronounces it to be modern, upstart, and revolutionary—a power which has risen to a guilty greatness by trampling on every historic right and every national memory. The so-called "Empire" of Austria—a lover of old German history almost shrinks from writing the hateful title—is a mere creation of yesterday, a mere collection of plunder from various quarters. Hungary and Bohemia were once elective kingdoms; Galicia was rent from unhappy Poland by the basest of treachery and ingratitude; Venice and Ragusa were independent commonwealths within the memory of man; the liberties of Cracow have been trampled to the earth before our own eyes. What has such a power as this in common with the old days of great and united Germany? What is its "Imperial" master but a mere impostor, a bastard Caesar, a profane mockery of the glories of Charles and Otto and Henry and Frederick?' (Freeman, *Historical Essays*, p. 281).

moment when the Seven Weeks War began, and Sadowa followed too swiftly for any intervention to be possible even if it had seemed expedient. In general the opinion of Court and Society was on the side of Austria. 'Might,' sighed the Duke of Cambridge, 'has triumphed over right—thanks to that horrible needle-gun which has ruined everything.' [1]

However, the loss of her Italian dominions and her exclusion from the Germanic confederation were in reality a gain to Austria. They forced her to abandon the dream of supremacy in Germany and Italy, and to turn her attention to domestic reforms and internal reorganisation. The cession of Venetia and the agreement between Austria and Hungary removed the two main obstacles to a good understanding between Austria and the English people. A tariff more favourable to English trade exercised some influence too.[2]

Moreover, a belief arose amongst us that Austria was really converted to constitutionalism, and with it a theory that the Magyars were a liberalising influence in the Austro-Hungarian Empire. Once more, too, in 1877, the re-opening of the Eastern Question brought England and Austria together. On June 6, 1878, England concluded a convention with Austria by which we undertook to support, at the coming Berlin Congress, any arrangement concerning Bosnia which Austria proposed; whilst in return Austria was to support England as to the limits, the occupation, and the organisation of Bulgaria. At the moment, Austria appeared to English Conservatives as a great conservative influence in Europe, while Russia seemed to them the disturber of European peace. In that spirit Lord Salisbury welcomed the conclusion of the alliance between Austria and Germany (October 7, 1879) as a guarantee for the future. 'To all who value the peace of Europe and the independence of nations, I may say without profanity, that it is "good tidings

[1] Maxwell, *Life of the Fourth Earl of Clarendon*, ii. 311, 323; *Bernstorff Papers*, ii. 237–44.

[2] Wemyss, *Memoirs of Sir Robert Morier*, ii. 2–17, 107.

of great joy." '[1] On the other hand, Liberals, recollecting the character of Austrian rule in the past, regarded with suspicion and regret the arrangement which placed Bosnia and Herzegovina under it, provisional though the arrangement might profess to be. Gladstone's feelings found expression in the famous outburst which led to such diplomatic friction when he came into power again.

'Austria has been the unflinching foe of freedom in every country in Europe. Austria trampled Italy underfoot; Austria resisted the unity of Germany. Russia, I am sorry to say, has been the foe of freedom, too; but in Russia there is an exception —Russia has been the friend of Slavonic freedom; but Austria has never been the friend even of Slavonic freedom. Austria did all she could to prevent the creation of Belgium. Austria never lifted a finger for the regeneration and constitution of Greece. There is not an instance—there is not a spot upon the whole map, where you can lay your finger and say: "There Austria did good." '

In his apology he alleged his fear 'lest Austria should play a part in the Balkan Peninsula hostile to the freedom of the emancipated populations,' and it was not made until he had obtained an assurance that the Austrian Government had 'no desire whatever to extend or add to the rights it had acquired under the treaty of Berlin, and that any such extension would be actually prejudicial to Austria-Hungary.'[2]

Recent events have shown that Gladstone's distrust was well founded, but for a score of years the Austro-German Alliance (which became in 1882 the Triple Alliance) apparently justified Salisbury's confidence. Political writers sometimes urged that England should join that alliance. Our excellent relations with Austria, it was said, made that power a link between us and the other two.[3] Others, in-

[1] Fitzmaurice, *Life of Granville*, ii. 211.

[2] *Ibid.*, ii. 201, 206, 211. 'You are more afraid of Austria; I of Russia,' wrote Granville to Gladstone in October 1883; *ibid.*, ii. 277.

[3] *Cf.* Lémonon, *L'Europe et la Politique Britannique*, 1910, pp. 35, 183, 451.

spired mainly by suspicion of Russia, advised alliance with Austria on the ground that the policy of England and Austria in eastern Europe sought the same ends :

'The sympathy of England with liberty,' declared Lord Randolph Churchill, 'and with the freedom and independence of communities and nationalities, is of ancient origin, and has become the traditional direction of our foreign policy.'

He went on to say that this in the past had brought us into opposition to 'certain European powers who did not appreciate the value of political liberty,' hinting very delicately that Austria had been one of them :

'Those were the days of Lord Palmerston ; but times have changed, and the freedom and independence of the Danubian Principalities and of the Balkan nationalities are a primary and vital object in the policy of the Austro-Hungarian Empire.' [1]

This illusion was based on Austria's adoption of parliamentary forms at home, and on the temporary hostility of England and Russia in eastern Europe, and it lingered in many minds till the beginning of the present century. It was slowly dissipated by increasing knowledge of the oppressive policy of Austrians and Magyars towards all the subject races under the Austro-Hungarian Government,[2] by the co-operation of Russia and England for the amelioration of the condition of Macedonia, by the development of the Austrian scheme for the suppression of Serbian independence. The kindred belief that Austrian policy was one of the conservative influences in European politics was destroyed by Baron von Aehrenthal and Count Berchtold.[3] Finally, Palmerston's axiom that the continued existence of the Austrian Empire was necessary to the maintenance of the balance of power in Europe became absurd when

[1] W. Churchill, *Life of Lord Randolph Churchill*, ii. 167 ; Dilke, *Present Position of European Politics*, 1887, pp. 185, 221.

[2] *Cf.* Seton-Watson, *Racial Problems in Hungary*, 1908.

[3] *Cf.* Wickham Steed, *The Hapsburg Monarchy*, 1914, p. 224 ; Lémonon, p. 461, and pp. 451–4 of the revised edition of 1912.

Austria deliberately set to work to overthrow it. It is evident now that the dismemberment of Austria-Hungary and the liberation of the nationalities she has oppressed will be the best guarantee for the future peace of Europe.

Looking back on the relations of England and Austria during the last four centuries it becomes clear that when they have been allies it was due to some external cause; their approximation was the result of antagonism to some third power or of some circumstance in the European situation at the moment. When they were enemies it was due to causes arising out of the very nature of the two states: it was because one state was the negation of the ideas of religious and political freedom on which the other state was based. No temporary agreement in the aims of the two Governments could counteract the lasting difference in their character and their ideals.

THE MISSION OF M. THIERS TO THE NEUTRAL POWERS IN 1870

By J. HOLLAND ROSE, Litt.D., Hon. V.P. R.Hist.Soc.

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In the usually unexciting annals of diplomacy there sometimes occur episodes which belong almost to the domain of chivalry; and such, surely, is that which forms the subject of this paper. It is hard to over-estimate the difficulties which confronted M. Thiers in the second week of September 1870, when he undertook to appeal to the chief neutral Powers of Europe on behalf of France. On September 2 she had suffered the staggering blow of Sedan. Two days later the Napoleonic Empire collapsed during vehement demonstrations in the streets of Paris, which had their counterpart in the chief provincial centres. The Republic was declared in several parts simultaneously; and the deputies for Paris, with one prominent exception, were acclaimed at the Hôtel de Ville as forming the Provisional Government of the French Republic. It is well known that, if that Government had not been speedily installed in office, a Red Republic would have been proclaimed, as was destined to happen in March 1871. The new Government, then, was a hasty makeshift. It had no mandate from the French nation. It promised, at first, to hold a General Election which should regularise the situation; but, as is now the case in Russia, the holding of a General Election during a furious war proved to be surrounded with very great difficulties, which could not be overcome until February 1871, after the armistice with Germany.

The leading men of the Provisional Government of National Defence were Gambetta, Minister of the Interior, Jules Favre, Foreign Affairs; Jules Simon, Public In-

struction; Leflô, War; Crémieux (an old Revolutionist of 1848), Justice. These and other Parisian deputies prevailed on General Trochu to act as President of the Council of Ministers and Governor of Paris. On the advance of the Germans towards Paris (which they began to invest on Sept. 19), a Delegation of this Provisional Government established itself at Tours—viz. Crémieux and two others (later on joined by Gambetta). Thus, by the middle of September, the Government was divided, and the chief part was shut up in Paris during the greater part of Thiers's mission, and could communicate with the outside world only by means of balloons and carrier-pigeons.

But external and administrative difficulties confronting Thiers were insignificant when compared with the feelings of distrust which French policy during the Second Empire had universally inspired. That period, marked by war, adventure, and intrigue, formed a strange commentary upon Louis Napoleon's initial declaration: 'L'Empire, c'est la paix.' No country felt safe from his designs. Russia, Austria, Great Britain, Syria, Mexico, Belgium, Luxemburg—all in turn suffered from, or were threatened by, the imperial policy; and all nations rejoiced more or less openly at the overthrow of the man on whom a prominent Frenchman passed the crushing judgment 'Celui-ci est condamné d'être brillant.'

What would be the policy of the young Republic? During a few hours there seemed a chance of peace with Germany. But on September 6 Jules Favre, the new Foreign Minister, startled the world with his melodramatic utterance that the Republic would never surrender an inch of its territory or a stone of its fortresses. The Proclamation of September 8, convoking a constituent assembly, was also couched in defiant terms. They echoed the feeling then prevalent in Paris and throughout France; and probably the adoption of this ultra-patriotic attitude was necessary to assure the survival of the young Government, which had but an insecure hold on life. Never-

theless, the frothy phrase of Favre (a Radical barrister and rhetorician, very ill-suited to his new duties as Foreign Minister) immensely increased the difficulty of Thiers in appealing to the neutrals. Their feeling naturally was that, if the French Republic inherited the warlike traditions of the age of Danton or the chauvinist spirit of the Second Empire, it must learn wisdom in the school of adversity. I have heard it stated that Thiers, after his diplomatic mission, thus summed up his experiences: 'Everywhere we are distrusted, or even hated.'

Equally strong was the chauvinist spirit in Germany. Sir Robert Morier, British envoy at Darmstadt, was shocked to observe the excesses of that sentiment even in a reasonable man like Baron Stockmar, to whom he wrote as follows on August 25:

'I do not share, and cannot understand, your excessive bloodthirstiness and violence against the French as such. The great organic fault of the European economy has been the preponderance they have been allowed to acquire in Europe. . . . When they are reduced to what they ought to be—a great nation living at peace with its neighbours—I think even you will admit that they have a part to play in the varied civilisation of Europe. They can furnish an element which the pure Teuton cannot—lightness, grace, form. Surely a world peopled by Germans and Englishmen would not be so perfect a world as one in which Frenchmen had a place!'

When so reasonable a man as Stockmar breathed out fire and fury against the French, and when the French themselves were resolved to fight to the end, we can realise the difficulty, if not the impossibility, of the mission which M. Thiers consented to undertake.

One other consideration deserves a passing notice before I proceed to describe briefly the personality of Thiers and the course of his mission. It is this. The work of the diplomatist and statesman is in some respects harder to-day than in former times. Then wars were waged by dynasty against dynasty, or by government against govern-

ment; now they are waged by nation against nation; and when hostile feelings permeate large masses of the population, a diplomatist is helpless. Dynastic wars may be patched up. National wars must be fought out.

Certainly of all living Frenchmen Thiers was the best fitted for the difficult task which Jules Favre begged him to undertake. More than any man, he represented France. The historian of the Napoleonic *épopée*, he personified her glory; the lifelong supporter of the House of Orleans, he represented her constitutional monarchy; but his force of character, good sense, wit, and personal charm also marked him out as a great personality. He had opposed the insensate war of 1870 because he foresaw disaster. As a reward for his good sense and foresight his windows were smashed by the populace. But his very marked self-confidence was not abashed by their fury, as it was proof against the entreaties of the Empress, after Sedan, that he would save the Napoleonic dynasty. Equally did he refuse to join the Government of September 4, Parisian deputy though he was. His aloofness from parties and governments told in his favour in an appeal made to the neutral Powers. The men of September 4 seemed to other governments men of straw. Thiers was respected for his past achievements and his still greater qualities. True, he was not a diplomat, either by nature or by training. His Provençal impetuosity and sharp temper often betrayed him into false moves. His complete self-confidence closed his mind to the *nuances* of the diplomatic art. Bismarck told Busch that he could easily extract information from Thiers. Further, his half-suppressed dislike of England and *penchant* for Russia biassed him from the outset. Still, despite defects of disposition and a certain narrowness of outlook, his energy, buoyancy, eloquence—above all, his unquenchable faith in France—marked him out as her one possible saviour.

As we have seen, the task which he undertook was complicated by the fact that the new Government of National

Defence had no legal right to speak for France. Chosen, or rather co-opted, by the deputies for Paris in the midst of indescribable tumult at the Hôtel de Ville, it might disappear in the next storm. This was the plea under which Lord Granville, British Foreign Secretary, sheltered himself on September 14, when he received Thiers at the Foreign Office. Lord Granville was caution personified, and his scruples were intensified by facts of no little importance. He had not long received the office of Foreign Secretary from the experienced hands of Lord Clarendon. Secondly, he had tried to induce the Napoleonic Government to adopt a less provocative tone towards Prussia during the disputes of July 1870; and that Government had rushed on heedlessly, *la tête baissée*. Thirdly, both Mr. Gladstone and Lord Granville had assured Parliament, before it separated for the recess, that Great Britain would remain resolutely neutral during the Franco-German War. Fourthly, the action of the Gladstone Government, respecting Belgium, was a signal proof of its resolve to maintain neutrality so long as Belgian neutrality was respected. Belgium was the test-question for British policy in the summer of 1870 as in the summer of 1914; and after Sedan, when both combatants respected her neutrality, there seemed very little likelihood that the United Kingdom would draw the sword or even offer its mediation.

If, however, we may credit the interesting information presented in the 'Memoirs of Sir Robert Morier,' the danger for Belgium did not cease with the surrender of Napoleon III and his army at Sedan. About the middle of September, Morier heard reports, the general details of which are thus presented in his Memoirs. He heard from Dr. Faucher and from other quarters news to the effect—

'that Alsace-Lorraine had always been the prize aimed at by Germany, and that, should the neutral Powers at the end of the war attempt to prevent her from enforcing this condition of peace, she would feel herself liberated from the duty of respecting the neutrality of Belgium, and a barter with France would

ensue, which would cede to the latter the French-speaking provinces of Namur, Liége, and Hainault in exchange for Alsace-Lorraine. This project, according to Dr. Faucher, had been much discussed in various circles at Berlin, before the commencement of hostilities. Much shocked at this revelation, Morier replied as follows:

Darmstadt: September 19, 1870.

'DEAR DR. FAUCHER,—I am very much obliged to you for your letter. It gives me the key to a riddle which I had been trying to solve, and it turns out that this key is the very one I had hit upon for myself. I always felt that the virulent and systematic attacks made from the very commencement of the war upon England by the Mamelukes of the Prussian officials, as well as by the so-called Liberal Press, combined with the cajoleries bestowed upon Russia, had some hidden political object in view, and I always strongly suspected that Belgium *y était bien pour quelque chose*, and that the object was to irritate public opinion in Germany against England that, when the time came, those who might be honest enough to think twice before they would connive at the international murder of an independent State might, out of mere blind passion against us, be induced to commit a crime which in cold blood they might have shrunk from. It is extremely interesting to me to learn that this very project was amply discussed at Berlin in various circles (Official and Liberal-National, I presume) before the commencement of hostilities, and that this great National War for the unity of Germany, the victorious upshot of which was, we are told, to secure a new era of peace and international justice, was deliberately entered upon on the basis of the *Projets de Traité*, and that at the very time that Europe was called upon by the organs of the self-same "circles" to believe that project was the sole work of Napoleon.'[1]

If similar reports from equally trustworthy sources reached our Foreign Office as to a possible or probable partition of Belgium, as a means of ending the Franco-German War, that fact would furnish additional reasons for caution; and herein may probably be found one reason for the preliminary efforts to form a union of the Neutral Powers, signs of which appear now and again in our diplomatic

[1] *Memoirs of Sir Robert Morier*, vol. ii. pp. 279, 280.

correspondence. But in the present fragmentary state of our knowledge, it will be prudent to pass over that topic.

We also know very little concerning the interviews of Thiers with Lord Granville on September 14 and the following days. I believe that those interviews were unimportant. Thiers seems to have come to London, chiefly at the request or order of Jules Favre, and to have centred his hopes in Russia. The reports of his interviews at London, which he sent to Favre, are meagre. He pleaded that it was time for the British Government to take a more active part in European affairs—the very course of action which the Gladstone Ministry was resolved not to take. He further urged that Great Britain ought not to allow the balance of power to be overthrown. But Mr. Gladstone certainly, and probably also Lord Granville, cared very little for the balance of power. Thiers also pointed out that France (the real France) had not desired war. The British ministers harboured doubts on this question. In fine, they could not be moved. But on one topic they gave some ground for hope: they said that they would advise the Prussian Chancellor to grant an armistice so that the voice of France might be consulted as to a peace. It is clear from what M. Thiers wrote, both in his dispatches to his Government,[1] and from his own 'Notes et Souvenirs' (p. 20), that the first suggestion to this effect emanated from London. It is well to insist on this topic, because the Russian Chancellor, Prince Gortchakoff, with characteristic vanity, afterwards claimed this proposal as his own.

More than this concession Thiers could not obtain from the British statesmen. But this was much: or it might have been much. For a few days there was a slight chance that the war might end. By comparing the accounts given by Lord Newton, in his 'Life of Lord Lyons,' with the German and French narratives, especially those of Busch and Favre, we find that the efforts of Lord Granville led

[1] For those dispatches, see J. Favre, *Le Gouvernement de la Défense nationale*, vol. i. pp. 134 *et seq.*

to the dispatch of an *attaché* of the British embassy at Paris, Mr. (afterwards Sir) Edward Malet, to the German headquarters. There—at Ferrières, Baron Rothschild's seat—he had an interview with Bismarck, in which the latter said he would be pleased to see a member of the new French Government in order to discuss terms of a possible arrangement, and that Germany would be reasonable, demanding only Metz and Strassburg, not Alsace-Lorraine. It was as a result of this interview that Favre went to Ferrières on September 19 and had interviews on that day and the following day. It is stated in the 'Life of Lord Lyons' that Favre threw away the chance of making peace on easy terms. But an examination of the German terms will show them to have been extremely severe. Perhaps Bismarck's hand was finally forced by the German General Staff, as it was in January and February 1871 on the question of Metz. In any case, Favre could not accept the harsh conditions demanded at Ferrières. Accordingly, the well-meant effort of the British Government to pave the way to peace overtures was frustrated. Probably it was the knowledge of the harshness of the German demands which partially modified the British attitude in October to November. It is significant that, early in October, Gladstone wished to protest against any peace-proposal which would transfer Alsace-Lorraine from France to Germany against the will of the Alsacians and Lorrainers. Granville objected to any such protest as a departure from strict neutrality and as involving opposition to Germany; and he carried the Cabinet with him.[1]

Thiers states in his 'Notes et Souvenirs' (*ad init.*) that he

[1] *Life of Lord Granville*, by Lord Fitzmaurice, vol. ii. pp. 63–5; *Life of Lord Lyons*, by Lord Newton, vol. i. p. 321; Busch, *Bismarck in the Franco-German War*, vol. i. pp. 144, 168, 178. Mr. J. W. T. Omond kindly reminds me of the interesting statement contained in the first-named work (vol. ii. p. 74), on the authority of Mr. Odo Russell's dispatch of December 18, 1870, to the effect that Thiers had offered, 'through a third party,' to cede Alsace Lorraine in exchange for Belgium, which was to be incorporated in a French kingdom for King Leopold.

left London at the request of Favre; but it is improbable that he who was so self-willed, especially in matters of foreign policy,[1] would have quitted London, unless the orders of his nominal chief (a mere tyro in diplomacy) had coincided with his own desires, which hurried him on towards Petrograd. The sea-route being too dangerous, he travelled *via* Cherbourg, Tours, North Italy, and Vienna. He reached Tours on September 20, and saw the members of the Delegation from the Central Government. It is questionable whether he had been able to inform Jules Favre at Paris of the results of his interviews at London. Certainly he cannot have sent by telegraph to Paris those full details of the London conversations which alone are of value in diplomacy. For on September 19 the Germans closed around Paris.

On September 20, Favre had a second and third interview with Bismarck at Ferrières; again they were fruitless. Busch (Bismarck's secretary) noted that Favre looked quite crushed and depressed when he left. Busch adds these words: 'The gentlemen in Paris will have to become more pliable.'[2]

On his way to Petrograd, Thiers stayed at Vienna in

[1] Comte de Chaudordy, *La France à la Suite de la Guerre de* 1870–1, p. 123.

[2] Busch, *Bismarck in the Franco-German War*, vol. i. p. 159. The negotiations at Ferrières turned mainly on the question of an armistice, with a view to the holding of a General Election. Obviously, no peace could be signed, in a satisfactory way, which was not endorsed by the French nation. This was the trump card in Favre's hand; but he seems to have played it too soon and too ostentatiously. The Germans, probably with reason, thought that, during such an armistice, the position of France would improve, and that the mission of Thiers to the neutral Powers would bring about a European intervention in favour of the young Republic. Consequently, they stiffened their terms, *and probably as a retort to, and a precaution against, the diplomatic efforts of Thiers.* In any case, Bismarck now demanded from France, as the price of an armistice for the purpose above indicated, the following heavy conditions—the surrender of Strassburg, Toul, Bitche, and even of Fort Valérien. These, of course, were quite out of the question. Consequently the war went on, and Thiers proceeded with his mission (Debidour, *Hist. diplomatique de l'Europe*, vol. ii. p. 409).

order to have an interview with the very anti-Prussian Chancellor, Count Beust. If time permitted, it might be interesting to compare in detail the accounts which the two men have left of their interview.[1] Thiers, who always relied much on first impressions, declared that he deemed the Austrian Chancellor downright false, in which judgment many others would have agreed. Certainly Beust was an inveterate intriguer; and I have found proofs that our ambassador at Vienna, Lord Bloomfield, distrusted him. There are many questionable assertions in the 'Beust Memoirs,' e.g. that, in the summer of 1870, he had given Napoleon III no cause to hope for Austrian help—a statement contradicted by the Memoirs of the French secret envoy to Vienna, General Lebrun. Three times over Beust declares he had no engagement with France;[2] but he also declares[3] that the two Powers had agreed to come to an understanding with a view to joint diplomatic action. Both Thiers and the Hungarian statesman, Count Audrassy, suspected Beust of having had a hand in aiding and abetting the Duc de Grammont's headlong actions in July 1870.

As regards Thiers's interview with Beust in September 1870, Thiers represents him as saying that, if Austria armed to help France, the Tsar, Alexander II, would attack her. Beust, on the contrary, scoffs at the notion that Russia would have done anything of the kind; and he adds: 'In the Viennese Archives there is not a trace of any evidence of Russian threats or warnings.' He dismisses the story as designed to gain credit to Russia for vigorous action which she never intended to take. The Russian Chancellor, Prince Gortchakoff, for his part, declared that Austrian statesmen invented the story of Russia's dark threats in order to save themselves the trouble and expense of arming.

I have gone through the dispatches of Lord Bloomfield

[1] Thiers, *Notes et Souvenirs*, pp. 5 *et seq.*
[2] Beust, *Memoirs* (Eng. Edit.), vol. ii. pp. 177–184.
[3] *Ibid.*, vol. ii. p. 184.

to Lord Granville at that time in the hope of finding a solution of the vexed question as to the alleged threats of Russia to Austria; but those dispatches throw little light on it.[1] They are, indeed, disappointing, except as illustrating the confusion and weakness then prevalent in the dual Monarchy. The following notes from them may be of interest. On September 1, Lord Bloomfield was assured by Count Beust that the Austrian Army was in a fair condition, as regards men and horses, and that 'it was intended to provision the fortresses so as to be prepared for all eventualities.' On that day Beust also asked Bloomfield whether he

'had heard anything more about the neutrality question. I replied that I had received copies of correspondence that had passed on that subject, and that I must apply to him for the latest news in this matter. I hoped all the Powers would act steadily together and hold to their declarations, in which case the neutral party in Europe would become a powerful one, and have a right to be listened to hereafter.'

No papers are here enclosed on the subject of the Neutrality Question; and on September 3 the news of Sedan caused a change of front. Bloomfield wrote (September 3): 'It [the Battle of Sedan] naturally puts an end to all the vain hopes which have been entertained in certain quarters here, that there was still some chance left for the Imperial cause.' Bloomfield added that Beust was anxious for early mediation between France and Prussia and would co-operate with Great Britain in any way, e.g. in a conference of the Powers. Differences of opinion existed as to details; for Lord Granville demurred to Beust's proposal that *all* the neutral Powers must act together and none must take separate action. But a compromise was reached on September 9. On September 14 or 15 Beust found means to discourage a proposal from a papal envoy, who asked whether Austria would be prepared to offer an asylum to the Pope in case the Italian troops drove him from Rome. At the same time the Bohemian Diet opened its session by acts

[1] F.O. Correspondence, Austria, No. 768.

that portended systematic opposition to Imperial policy; both the Czechs and the Germans of Bohemia were guilty of factious and annoying opposition to the central Government.

It was in the midst of these discouraging conditions that Thiers arrived. Bloomfield regarded the failure of his mission as certain. He describes it briefly in a dispatch (No. 111) dated Vienna, September 24:

'. . . Count Beust has told me that he gave M. Thiers no assurance beyond the good will of Austria, and the expression of his hopes that Prussia would not insist upon unacceptable terms of peace; but he gave no promise of support at Berlin; and, indeed, M. Thiers does not appear to have made any special proposition on the subject, but rather to have deferred pushing the question until his return here from St. Petersburg, where he hopes to find more sympathy than he has yet met with. Count Beust expects M. Thiers back in a week or ten days. He does not think the Russian Government will be disposed to assist France at the present moment, and apprehends that his mission will have little influence at St. Petersburg, as it has had at other places. He added that M. Thiers appeared to be travelling in the interest of the Republic; for he wished it to be understood that the present Government of France was a *serious* one, and ought to be acknowledged by the foreign Powers who desired the restoration of peace.'

On the last-named topic Beust expressed surprise, on September 27, that Great Britain was so slow in acknowledging the new French Government, to which Bloomfield replied that it was a self-constituted authority, not yet sanctioned by the French nation; but if it received such sanction, Great Britain would recognise it.

On October 1, Bloomfield telegraphed to Granville that he had heard that Thiers was charged to offer *carte blanche* to Russia on the Eastern Question if only she would support France.

There, for the present, we may leave the question of Austria's desire to help France, and we will accompany Thiers to Petrograd, where he arrived on September 27, the day before the news of the surrender of Strassburg to the

Germans. The bad fortune which dogged his steps was therefore conspicuous at the very time when his hopes were at their highest. He soon found (as he says in his 'Notes et Souvenirs') that the Tsar and his Chancellor, Prince Gortchakoff, were strongly biassed against the French Republic, which they evidently believed to be a mere temporary expedient. Thiers assured them that the Republic would last, and that the deputies soon to be elected in the General Election (then soon expected) would definitely establish that form of government. Obviously, he did not convince them. His account of the interviews at Petrograd is somewhat hazy. But he admits that the Tsar finally refused to do more than exert his personal influence with King William of Prussia with a view to arranging reasonable terms of peace. Both the Tsar and Gortchakoff clearly, and even emphatically, opposed all notion of collective action by the Powers in the direction of mediation. Finally, on October 3, Gortchakoff sought very effusively to induce Thiers to return at once to Versailles (then the German headquarters), so as to open negotiations for peace, in which case it might be possible perhaps to save Lorraine. For this purpose he offered his good offices; but he also hinted that the prolongation of the war must aggravate the terms imposed on France. Thiers pointed out that he had no power to negotiate, and that the position of affairs in France was not so desperate as Gortchakoff assumed.

This was practically all that the French statesman gained from Russia, and it was—nothing! In his 'Notes et Souvenirs' he cloaked his disappointment under a dignified reserve; but it must have been keen.[1]

[1] Bismarck (*Reflections and Reminiscences*, vol. ii. p. 113) even says the Tsar was hostile to France. This is an exaggeration; but Alexander II certainly regarded it as an act of filial piety to reverse the Treaty of Paris which had dealt so fatal a blow to the hopes of Nicholas I. Lord Morley, in his *Life of Gladstone*, assumes that Bismarck, early in the war of 1870, hinted to Russia to abrogate the Treaty of Paris. I have found no proof of this statement, which, however, is antecedently probable.

In order to try to fathom Russian policy at that period, I have examined the Russian records of the British Foreign Office for September and October 1870; and I will now quote from the dispatches of the British ambassador at Petrograd, Sir Andrew Buchanan. On September 7 he reports that the Russian Foreign Office had semi-officially stated that it would not enter into any engagement which would fetter its freedom of action. This, I think, may be taken to imply that Russia would not enter into any engagement with the other neutral Powers. Buchanan enclosed articles from the leading Russian journals, some of which (e.g. the *Golos* and the *Moscow Gazette*) strongly urged intervention in favour of France. On September 8, Buchanan reported that Gortchakoff expressed regret that (I quote his words)—

'there seems so little hope of England and Russia being able to prevent the dismemberment of France, should the Prussian Government have decided not to relinquish their conquests of Alsace-Lorraine; and he fears that the neutral Powers can only look on with regret if Prussia should commit so great an error as to annex territory which cannot fail to be a constant source of weakness and embarrassment to Germany, and a germ of future wars.'

Passing over these non-committal and perhaps insincere expressions of regret of the Chancellor, we find little of interest until September 21. On that date Buchanan sent off two important dispatches marked 'confidential.' The former of them stated that Austria had reduced her armed forces to the peace footing, and that Count Beust now considered that it was for Russia 'to take the initiative in any measure for the restoration of peace, and that, as she [Austria] will be ready to support such measures, she hopes, if any are taken, she will be made acquainted with them.' Beust also expressed surprise and regret that any recent action of Austria should have aroused feelings of distrust in Russia. Thereupon Gortchakoff (says Buchanan) assured the Austrian ambassador, Count Chotek, that

he had not felt any distrust; and the Emperor Alexander II also sent friendly assurances to the Emperor Francis Joseph. It will be observed that this exchange of friendly sentiments between Petrograd and Vienna took place about September 20—i.e. a week before the arrival of Thiers at Vienna. Therefore, at the time of his arrival, all friction between Russia and Austria had, apparently, ceased.

Buchanan's second 'confidential' dispatch (No. 354), of date September 21, is more important, and must be quoted almost in full:—

'With reference to Sir Henry Elliot's dispatch, No. 164 of the 23rd ult., of which a copy was enclosed in Your Lordship's No. 233, of the 14th inst., relative to the language held by General Ignatieff to Aali Pacha respecting the neutralisation of the Black Sea and the cession to Moldavia in 1856 of a part of Bessarabia, Her Majesty's Government will probably be of opinion that the Russian Government consider that the time has now come when they may ask for a revision of the Treaty of 1856. I have frequently stated in my correspondence that the Russian Government would avail themselves of the first favourable opportunity to bring the question under consideration, and Prince Gortchakoff's wish that a Congress should be convoked for settling the terms of peace between France and Prussia has possibly originated in a hope that, on such an occasion, he may find it possible to claim with some prospect of success a revision of the obnoxious articles of the Treaty. Prussia has, however, shown no disposition to gratify his wish for a Congress; but she may not, nevertheless, be unwilling to support a proposal made in some other way for a revision of the Treaty, and to repay by such support the services rendered to her by Russia during the present war. There is every reason to believe that Russia engaged to prevent Austria from becoming a belligerent, and, in the event of being unable to do so, to support Prussia against her; and that the Prussian Government are fully sensible of this service may be presumed from the language of an article in the *Cologne Gazette*, of which I enclose an extract, which is nearly identical with the assurances which I have reason to believe Count Shuvaloff, the Minister of the Secret Police, on passing through Berlin about a fortnight

ago, was charged by Queen Augusta to convey to the Emperor, that the King of Prussia and the people of Germany will not forget the services for which they are indebted to Russia, and that they will be ready to give their support to any question raised in Europe of interest to Russia if a wish to that effect is expressed from St. Petersburg.

'Under these circumstances General Ignatieff's conversation with Aali Pacha and the language of the Russian Press on the outbreak of the war respecting the interests of Russia in the East, and also that held in society by persons acquainted with the feelings and sentiments of influential men, cannot be considered without importance: but I, nevertheless, believe that General Ignatieff, in holding the language he did to Aali Pacha, acted entirely on his own responsibility and that his proceedings have caused much dissatisfaction here.'

Sir Andrew Buchanan concludes the dispatch by stating that Prussians in St. Petersburg had often declared that Russia would abrogate the Black Sea clauses of the Treaty of Paris whenever she could; also that Gortchakoff had remarked that the States which in 1856 allowed the cession of part of Bessarabia to Moldavia could not now with reason protest against the annexation of Alsace-Lorraine by Germany.

In a third dispatch of that same day (Sept. 21), Buchanan states that Ignatieff's declarations at Constantinople had been disavowed. Nevertheless, it is certain that that astute ambassador was expressing, though perhaps prematurely, the designs of the Russian Government. Its chief pre-occupation was the abrogation of the Black Sea clauses of the Treaty of Paris. Buchanan reported that it possessed in the Black Sea ports thirty-one sea-going steamers mounting 124 guns—an establishment far in excess of what was expected in 1856 on a sea then declared to be neutral. Russia was also beginning to construct ironclads there with plates sent through the Baltic ports; and these activities on the Black Sea were leading Turkey, Roumania, and even Servia, to order large quantities of rifles from the Remington Company. In short, the chief pre-occupation

both of Russia, Austria, and the Balkan States was the Eastern Question.

In the following dispatches, Sir Andrew Buchanan summarily dismisses the efforts of M. Thiers to move the Russian Government in favour of France:

No. 374. Confidential. St. Petersburg: September 30, 1870.

'M. Thiers arrived here on the 27th instant and proceeded on the same day to Czarskoe Seloe to wait upon Prince Gortchakoff; and he had yesterday the honour of being received by the Emperor at a private audience at the Winter Palace. I understand that during a very long conversation with Prince Gortchakoff, in which he spoke of the past, the present, and the future, His Excellency represents him to have proposed nothing of a practical character, and that he will therefore probably leave Russia as much disappointed with the result of his mission as he must have been with that of his visit to London. I am told that, on his speaking of the public sympathy expressed by the Russian Press in favour of France, Prince Gortchakoff warned him against adopting the illusions of General Fleury as to the influence of the Press in Russia; for it had no power whatever, and the policy of the Government was entirely dependent upon the will of the Emperor.

'It is said that his [Thiers's] language to the Emperor evinced strong feelings in favour of the restoration of the Orleanist dynasty.'

No. 390. Confidential. St. Petersburg: October 5, 1870.

'My Lord,—M. Thiers left St. Petersburg yesterday for Vienna, from whence he will proceed to Florence. Prince Gortchakoff, I am told, informed him that he had listened with much interest to his explanatory observations as to the past and the present state of affairs in France, but said he had no authority to enter into any discussion with him respecting the future. It is said that he has held out to the Russian Government the hope that the new Government of France may not oppose a revision of the Treaty of 1856: but I have not yet ascertained how far this report may be true.

'His intended visit to Florence is a result of his conversations with the Italian Minister here, with whom he had been formerly acquainted. He stated to the Marquis Bella Carrociola that

he hoped Italy did not entertain feelings of resentment towards him in consequence of his opposition to her unity, which he attributed to having foreseen that, if Italian unity was accomplished, it would be followed by that of Germany—an eventuality which he had always deprecated as prejudicial to the interests of France. His reconciliation, however, to Italian unity was now, he said, complete, and he would be glad to have an opportunity of communicating with Italian statesmen, on the mutual interests of France and Italy. The Marquis Bella therefore asked if [he] would authorise him to acquaint the Italian Government with his wish to do so, and the result has been a message from Florence expressing the satisfaction which it will afford the King of Italy and his Government to receive him.'

Thiers had also said he could well understand Italy occupying Rome; and, as the Papal policy at the late Œcumenical Council had annoyed French Catholics, France would doubtless accept the present situation if satisfactory 'guarantees were given for the maintenance of the spiritual independence of His Holiness.'

In passing, we may notice that Sir Horace Rumbold, then attached to the British Embassy at Petrograd, felt confident that the Russian Government firmly opposed the efforts of M. Thiers. 'In his Recollections of a Diplomatist' (vol. ii. pp. 292–3), Sir Horace says:—

'The sincere desire shown by our Government, from the beginning, to afford to the French, in their extremity, such diplomatic assistance as was compatible with neutrality, led to frequent *pourparlers* with the Imperial *Chancellerie*, which made St. Petersburg a most active and interesting post. Little justice has been done to us in France for sympathies which grew stronger as the struggle went more and more against her. In Russian society, too, there was a current in favour of the French that was strengthened by the, to say the least, severe proceedings of their conquerors. But the Imperial Government, from motives it was at first difficult to divine, were throughout hostile to France. Nowhere did M. Thiers fail more signally in his patriotic *tournée* than at St. Petersburg. Under these circumstances the blindness of the French *Chargé d'Affaires*, Marquis de Gabriac, was quite surprising. I had

known Joseph de Gabriac as a boy in Paris, and was on very friendly terms with him, but, as I reported to Lord Granville, it was not a little provoking to hear him expatiating on "*les sympathies Russes pour nous*," and contrasting them with what he called "*votre abandon*"—the truth being that it was the Imperial Government which had all along frustrated every attempt at mediation. I had an unofficial conversation in February of 1871 with the *Adjoint*, or Assistant Minister for Foreign Affairs, M. de Westmann—a pale but conscientious reflex of his chief—and was quite taken aback by the severity of his language about the French nation and the future of France. Referring, with much truth, to the mortifying proof afforded by the last elections at Paris (which shortly afterwards led to the Commune) of the unchastened spirit of the Parisian population, he said that the French showed such lack of discipline and impatience of authority that they could only be compared to the Poles. France had long played a leading part in Europe and had wielded great power, but she had made so bad a use of her advantages that it was not to be regretted that the preponderance to which she had so tenaciously held should now pass to a nation with infinitely more *sens politique*. The final eclipse of France would be no European calamity. In short, M. de Westmann pronounced a complete funeral oration over that unhappy country, entirely leaving out the conventional expressions of regret customary on such occasions.'

Meanwhile Lord Bloomfield was well informed as to what was proceeding at Petrograd; and on October 1 he telegraphed as follows to Lord Granville:—

'Count Beust hears that M. Thiers is charged to offer *carte blanche* to Russia in regard to the Eastern Question, if she will assist France out of her present difficulties. This intelligence has reached the Chancellor indirectly from Senard, the French Minister at Florence, a confidential friend of Favre, and also from another reliable source, and Thiers is believed to have held language of a similar import when here. Count Beust hears from Warsaw that Russia is quietly increasing her military preparations. He considers the understanding between Russia and Prussia to be complete.'

In an explanatory dispatch of the same date, Bloomfield stated that the Russo-Prussian understanding was believed

to relate to Eastern affairs. On October 12, in answer to Lord Granville's dispatch expressing doubts whether Thiers had offered to Russia *carte blanche* on Eastern affairs, Bloomfield again affirmed that he had done so. The two following dispatches describe Thiers's unavailing efforts at Vienna:

BLOOMFIELD TO LORD GRANVILLE.

No. 142. Vienna: October 12, 1870.

'M. Thiers arrived here from St. Petersburg on Friday night [1] and left for Florence on Tuesday. He had a long interview with Count Beust and subsequently an audience of the Emperor, and saw many of the leading people here. He was well received and perfectly satisfied with the attentions shown to him. The Emperor appears to have expressed to M. Thiers the lively interest he took in the affairs of France, but to have given him to understand that, as to the policy to be followed, the interests of Austria would be his guide. Count Beust has held the same opinions to him and discouraged his entertaining any thought of obtaining support from Austria.

'Monsieur Minghetti, the Italian Minister at this Court, has also discouraged M. Thiers from expecting from his Government anything but assurances of the interest they must always take in the affairs of France, or looking for anything like military assistance.'

SAME TO SAME.

No. 143. Confidential. Vienna: October 12, 1870.

'The official language of Count Beust as to his policy regarding France is that of neutrality, but his personal feelings on this subject are always drawing him in the direction of active interference. It is, I believe, perfectly true, as stated in my preceding dispatch, No. 142, that he has abstained from misleading M. Thiers into the expectation that Austria will at some future moment be ready to move in favour of France; for he knows full well that the country is not disposed at the present moment to support such a policy, but His Excellency has given M. Thiers to understand that at Florence he considers his chances of sympathy are better than here, Italy being secured by her

[1] October 8.

geographical position from dangers from the side of Germany. Count Beust has also spoken to M. Minghetti on the subject, who replied that he had no reason to believe his Government had the least thought of departing from their neutral policy and their engagements with other neutral Powers, and he asked Count Beust, if Italy were even disposed to give military aid to France, would Austria allow her troops to pass the Tyrol? To this Count Beust answered that there could be no question of any such permission being accorded. M. Minghetti has prepared his Government for the pressing appeal which M. Thiers will address to them, and has no doubt that his visit to Florence will have as little effect as at St. Petersburg and Vienna.'

According to Thiers's own account of his reception on his return to Vienna, both Beust and Andrassy professed a belief that Russia would attack them if they moved in favour of France. Another curious feature in Thiers's sketchy narrative is that only then did he note the probability that there was a secret Russo-Prussian understanding on the Eastern Question. It is strange that he did not find out that very ill-concealed secret at Petrograd. Further, I am inclined to think that any statements by Beust and Andrassy, as to the danger of an eventual attack from Russia, were wholly unreal. The evidence which has been set forth above seems to me to warrant the conclusion that the Austrian Government, despite Beust's private rancour against Prussia, was, by the beginning of October, absolutely resolved on the maintenance of neutrality. In view of the re-opening of the Eastern Question, which then seemed imminent, Austria very naturally desired to keep her forces intact. She was suffering from the results of the war of 1866. The Dual System was still a doubtful experiment. Bohemia fretted against Austrian control. The finances were in disorder, and the army was not yet well prepared for war. In these circumstances Austria could not but be circumspect when the Eastern Question threatened to open up all the difficulties that were so partially settled by the Treaty of 1856. At

any rate, she was unlikely to take action in favour of the French (as she secretly desired to do) unless she received assurances of support from London.

In these considerations, as it appears to me, lies the key of Austria's policy; and I cannot but think that the language of Beust and Andrassy concerning Russia's veiled threats (as reported by Thiers) was a pretext to hide Austria's desire to reserve her strength for the Eastern embroglio than entering on a threatening phase. Thiers's notes give the impression that the Emperor Francis Joseph and his Ministers were in a state of nervous depression, which, indeed, alone can explain or excuse the singular effort of Beust to persuade Thiers that Italy was the Power which ought to intervene. Doubtless, Count Chotek, from Petrograd, had informed Beust of the hopes which Thiers had there conceived from his conversations with the Italian ambassador; and now, with undignified eagerness, the Chancellor of the Austrian Empire bowed Thiers out of Vienna with assurances that he would get all he wanted at Florence.

The ever hopeful septuagenarian was soon undeceived. Doubtless, King Victor Emmanuel would gladly have drawn the sword; but, as in the early days of the Franco-German War, so now, his Ministers clung to neutrality. Why, indeed, should Italy have gone to war? France had been well paid for her help in 1859. And now, when Italian Unity was consummated by the occupation of Rome, intervention on behalf of France would have jeopardised the results of a generation of successful preparation and effort. In vain had the Count de Chaudordy, who handled Foreign Affairs at Tours during Thiers's absence, manipulated affairs at Florence so as to strengthen the party of intervention. Senard, the French Minister at Florence, soon warned Thiers that all such projects were futile; and the old man returned to Tours on October 21, with his hands empty, as when he started. He found the military situation worse than ever. Bazaine, fooled by Bismarck in that miserable

Régnier affair, had not done his utmost to break out of Metz, believing that, by keeping the last army of France intact, he was serving the cause of the ex-Empress Eugénie. She for her part utterly and indignantly disavowed Régnier, when Général Bourbaki saw her in England. Thus the cunning of Bismarck, and the gullibility or worse of Bazaine, almost demobilised the last army of France at a time when it might have done so much to help the brave volunteers who formed the army of the Loire. The fate of Metz was almost sealed at the time when Thiers reached Tours, and on the 27th Bazaine surrendered.

During the interval, before that staggering blow fell on France, a last glimmer of hope shone upon her. There seemed a prospect of common action between Great Britain and Austria. Proposals, with a view to that end, passed to and fro between Vienna and London. They do not, strictly, form part of my subject, which ends with the return of M. Thiers to Tours. Further, they have been sketched in outline by M. Sorel in his 'Histoire diplomatique de la Guerre franco-allemande.' It must, then, suffice to say that the Comte de Chaudordy had skilfully contrived to spread alarm at London and Vienna as to an eventual Franco-Russian entente respecting the Black Sea clauses of the Treaty of Paris (1856). Both the London and Vienna Cabinets understood that Russia was about to shake herself free from the restraints imposed on her by that Treaty; and it was feared that France, in her desperation, might countenance this violation of the Treaty of Paris. These would appear to have been the reasons why Great Britain and Austria began to draw together during the middle of the month of October.[1] Beust was particularly active in the matter of a collective intervention of the Powers; and it is not easy, in the present incomplete state of our knowledge, to understand why he, who had been so unenterprising during the two visits of Thiers,

[1] Debidour, vol. ii. pp. 415–6; Klaczko, *The Two Chancellors* (Eng. edit.), pp. 304–6.

should have shown so much activity in the middle and latter parts of October. I hesitate to do more than to offer a very tentative explanation of Beust's singular change of front. Perhaps, at the time of Thiers's visits to Vienna, the Austrian Chancellor had not yet fully realised the seriousness of the Black Sea Question and of the probable domination of the Continent by Germany and Russia. He therefore seems to have made a last spasmodic effort in order to avert the triumph of Germany (always a little doubtful in the days preceding the capitulation of Bazaine). Whatever may be the solution of this riddle, it is certain that the actions of Austria about October 20–25 caused Bismarck great anxiety and exasperation; for, on October 26, he contrasted the moderate and satisfactory tone of Lord Granville's recent communications with the dubious and almost threatening missives of Count Beust.[1]

It is therefore possible that the warnings of Thiers, as to the consequences of an absolute triumph of the German arms, struck home after his departure empty-handed both from Vienna and Florence. So far as I can see, the Russian threats to Austria lapsed entirely about September 20—even supposing that they were serious before that date. The differences between the two Empires thereafter had to do only with the Eastern Question; and it is difficult to understand why Beust and Andrassy let slip the favourable opportunity, offered in the early part of October, for a timely understanding with the Cabinets of London and Florence.

It seems probable that a strong lead, given either at Vienna or London, might have led to the formation of a league of neutrals which could have imposed moderation on Germany. Already, through the Ferrières interviews, her terms were known to be very exacting. Perhaps Russia would have opposed the armed mediation of the neutral Powers; but her opposition might have been

[1] Busch, *Bismarck: Some Secret Pages of his History* (Eng. edit.), vol. i. pp. 269, 277–289.

bought off by offers of complaisance to her on the Eastern Question.

It would appear that none of the neutral Powers displayed either foresight or enterprise at that crisis. It is certain that by September 14 Lord Granville was aware of the resolve of Russia to re-open that question.[1] The arrival of that news, from Sir Henry Elliot at Constantinople, immediately preceded the interviews with Thiers at the Foreign Office; and probably the emergence of the Eastern Question increased the caution of Lord Granville. Yet, surely, it might have provided an additional motive for close action with Austria and Italy. In that case the party of the neutrals, which Beust was so anxious to form, might have acquired consistence enough to give pause both to Russia and Germany. In fact, if the neutrals could have found means to humour Russia, on the only question for which she really cared, they might have ensured her complete neutrality on the Franco-German Question. But Prussia forestalled them; and it appears that they took no steps to recover lost ground. Apart from the effort of Lord Granville to facilitate the *pourparlers* between Favre and Bismarck, Great Britain remained entirely inactive, though her Government knew that Count Beust wished to act, and would have acted if he had had support from London. By action, I mean diplomatic action, backed up by military and naval preparations, such as would have impressed the Tsar and also Bismarck. In Russia the Tsar was almost alone in desiring a German triumph; and it is fairly certain that he would not have run the risk of a collision with England and Austria on behalf of Germany.

In short, the British and Austrian Governments, by gripping the occasion firmly, might have prevented the forthcoming annexation of Alsace-Lorraine which Gladstone and Gortchakoff alike deplored. Even in the present incomplete state of our knowledge, I think we may pro-

[1] See Buchanan's second dispatch of September 21, 1870, quoted above.

nounce judgment on British and Austrian policy in September and October as displaying unstatesmanlike passivity. Thiers did not expect their armed intervention, but he did expect, and he had a right to expect, their diplomatic intervention—as also, perhaps, that of Russia. Probably he would have had a better chance of success if his proposals had been more definite, for, judging by what Gortchakoff said to Buchanan, they were altogether indefinite. But defects of procedure on his part ought not to have prejudiced the neutral Powers against the great cause which he represented. Further efforts of the same kind, made by Favre's private secretary, Reitlinger, in November and December, at London and Vienna, also failed.[1] Those Governments deemed that prudence lay in inaction. Consequently, the conversations between the neutral Powers began and ended with the statement that they would remain neutral. The consequences of this passivity were soon apparent. Russia had her way respecting the Black Sea. Germany had her way respecting France. Thiers failed not because of the lack of clear warnings as to the harm certain to result to the European System, but because at London, Vienna, and Petrograd he found no statesman endowed both with foresight to discern the evils resulting from an absolute triumph of Germany, and with enough of resolution to compel her to listen to the voice of Europe.

[1] *A Diplomat's Memoir of* 1870, by Frédéric Reitlinger (Eng. transl.). London, 1915.

THE INDIA BOARD (1784–1858)

By WILLIAM FOSTER, C.I.E.

Read November 16, 1916

THE Right Honourable Board of Commissioners for the Affairs of India—generally known as the India Board, or the Board of Control—had an existence of practically three-quarters of a century, namely, from the last year of the Governor-Generalship of Warren Hastings to the assumption in 1858 by the Crown of the direct administration of India. That this long period was filled with important events in the history of both England and India no one will need to be reminded; and a study of the part played by the Board would be of great interest. Obviously, however, the subject is far too big to be dealt with in the time available this afternoon; so I have thought it best to limit myself to what may be termed the domestic side of the Board's history—its constitution, its methods of working, its personnel, the various buildings it occupied, and so forth; using for this purpose chiefly the Board's own records, now preserved among the archives of its successor, the present India Office.

As a preliminary, a few words may be said regarding the inception of the Board. From the time when the victory of Plassey and its immediate developments laid Bengal at the feet of the English, it was recognised as inevitable that the King's Government should in some form or other assume the ultimate responsibility for the administration of the East India Company's territorial possessions; but only by slow degrees and with much hesitation was action taken. As early as 1759 Clive wrote from Calcutta to the elder Pitt, urging that the Crown should intervene; and as years went on, marked by scandals in India and blunders in Leadenhall Street, the demand, both in and out

of Parliament, for the institution of some form of control became more and more insistent. In 1773 the Ministry attempted to meet the situation by passing the Regulating Act; but this, while making important changes in India, left matters at home much as they were, except that the Company was required to send to one of the Secretaries of State a copy of every despatch received from India on other than commercial topics. Eight years later a further step was taken; by the Act of 1781, granting the Company an extension of its monopoly for a further period, it was enacted that copies of all dispatches sent to India on administrative matters should be communicated to the Government, and that the Company should obey any directions received from the latter relating to peace and war or to transactions with other Powers. It was soon felt, however, that this arrangement was ineffective, and that something more must be done. Accordingly in 1783 Fox introduced two Bills—subsequently merged into one—which included provisions for taking the entire territorial government of its Indian possessions out of the hands of the Company and vesting it in seven Commissioners or Directors, to be appointed in the first instance by Parliament, and afterwards by the King; while the management of commercial affairs was to be entrusted to nine Assistant Directors, chosen by the Legislature from among the holders of not less than £2000 of India Stock, and performing their duties under the supervision of the seven Commissioners. No provision was made for the responsibility of the new directorate to Parliament, except that its members were to be removable on address from either House; and herein lay the most striking weakness of the plan, which met at once with a storm of criticism. The opposition of the Company was natural enough, and it was reinforced by a large body of outside opinion, which dreaded lest the effect of the measure would be to place the patronage of India in the hands of party nominees, who would use it for party purposes. In spite of the outcry, the Government succeeded

in carrying the Bill through the Commons by a large majority; but the King saw in its unpopularity a means of getting rid of a Ministry repugnant to himself, and an unsparing use of the royal influence led to the Bill being thrown out on the second reading in the House of Lords.

The dismissal of the Ministers was followed by the appointment of the youthful William Pitt as First Lord of the Treasury, and five months later a general election gave him a triumphant majority over his opponents. A fresh measure for the management of Indian affairs was promptly introduced and passed through all its stages, becoming law on August 13, 1784. In this Pitt skilfully avoided the defects which had proved fatal to his rival's scheme. The constitution of the Court of Directors was not interfered with, except by the requirement that three of its number should be appointed a Secret Committee with special functions. A new Board of Commissioners was to be appointed by the Crown, consisting of not more than six Privy Councillors (including the Chancellor of the Exchequer and one of the Secretaries of State) and holding office only during the King's pleasure—an arrangement which secured the responsibility of the Ministry of the day for the actions of the Board. The latter was to have access to all the Company's papers, and no dispatch was to issue (on other than commercial business) without its previous approval. Further, the Commissioners might require the Company to prepare drafts on prescribed subjects, and might, in cases of default or urgency, transmit their own drafts to the Secret Committee, to be signed and sent out to India in the name of the Company. In the event of a dispute between the two bodies as to the powers of the Board, the question was to be submitted to the decision of the King in Council. The appointment and dismissal of their servants was left entirely to the Court of Directors, whose hands were strengthened by a proviso that any resolution of theirs approved by the Board was not to be rescinded or altered by the General Court of Proprietors.

It may seem a strange idea to entrust duties of this nature to half a dozen Privy Councillors, selected mainly for political reasons; but, after all, it was in accordance with British constitutional practice, which does not ask for expert knowledge from those entrusted with the nation's naval, military, or financial business, or even from those sent out to the colonies and dependencies as Viceroys or Governors. Moreover, the business of detail—in which such knowledge was of special importance—remained in the hands of the East India Company and its trained advisers; while before long the Board's own officials acquired a very fair acquaintance with Indian problems. Again, the first person chosen for the important post of Chief Secretary to the Board was Mr. Charles William Boughton Rouse, M.P. for Evesham (1780–90), who had had considerable Indian experience.[1] It is also to be remembered that later on the Board included members with first-hand knowledge of Indian administration. Lord Teignmouth, who (as Sir John Shore) had been Governor-General from 1793 to 1798, was a Commissioner from 1807 to 1828; the Earl of Buckinghamshire, who was President from 1812 to 1816, had previously (as Lord Hobart) been Governor of Madras; Lord Ellenborough was four times President, and between the third and fourth periods filled the post of Governor-General; while Sir James Mackintosh,

[1] He was appointed to the Bengal Civil Service in 1765, and served until about 1779. Details of his career are not available; but we know that he presided at Calcutta over the celebrated suit which formed the basis of the charge of forgery on which Nandkumar was afterwards hanged, and that from about 1775 he was Chief at Dacca. Rouse was also a Persian scholar, and translated parts of the *Ain-i-Akbari* for his friend Major Rennell, who in return dedicated to him one of the maps in the *Bengal Atlas*. He gave assistance of a similar character to Robert Orme, the historian. In the year of his retirement from the India Board, Rouse published a *Dissertation concerning the Landed Property of Bengal*, dedicated to Henry Dundas. As a reward for his services, he was created a baronet in July 1791; and in February 1794, on the death of his brother, he succeeded to the family baronetcy of Boughton of Lawford, whereupon he changed his surname to Boughton. He sat in the House of Commons as member for Bramber, 1796–99, and died in February 1821.

some years after his return from Bombay, became a member of the Board and held office till his death.[1] On the other hand, the Board served at times as a training ground for Indian administrators. Lord Mornington was a Commissioner from 1793 to 1797, before going to Bengal as Governor-General. In 1806 Lord Minto resigned the office of President in order to take up the Governor-Generalship, and Lord Ellenborough did the same thirty-five years later. George Canning, another President, had the offer of the same post in 1822, but declined. Macaulay was first a member of the Board and then its Secretary, before proceeding to Calcutta as Legal Member of Council; and James Wilson, the first Indian Finance Minister, had previously served for nearly four years as one of the Board's secretaries.

From the point of view of the Company, the arrangement made by Pitt was one which was at least acceptable. The Directors possessed still the power of appointing and dismissing their own officials, the undisturbed control of commercial matters, and a very large share in other business, while the responsibility of justifying to Parliament the management of Indian affairs was shifted from their shoulders to those of the Ministry of the day. Pitt's proposals received, therefore, the ready assent of Leadenhall Street; and, when once the measure had passed into law, the Directors did their best to co-operate with the new Board. It must have been irksome to them at times not

[1] In the report of the Select Committee of 1832 reference is made to a suggestion (by Sir John Malcolm) that one or two of the Commissioners should always be persons who had been employed in the Company's civil or military service abroad. Questioned on this point, the Board's Assistant Secretary pointed out that it was already open to the Government to appoint members with those qualifications; while to go further, and lay down such a requirement by law, might imply that special attention was to be given to the views of such a member. He added that soon after the establishment of the Board there was a secretary who had had Indian experience (Rouse is evidently meant), and that 'the President found himself frequently annoyed by the obtrusion of opinions to which perhaps the party offering them was inclined to attach more weight and importance than properly belonged to them, from the mere circumstance of his having been in India.'

only to be overruled, but also to have to sign dispatches with which they were not in agreement; yet in most cases they were content to remonstrate and require reconsideration (a right formally conceded to them in the Act of 1793). The position in this respect was rather a strange one, for while the Board could, if it desired, make the Company praise an official whose conduct was in reality disapproved, it could not save him from dismissal by his irate masters. A witness before the Parliamentary Committee of 1832 gave a rather highly coloured account of a case in which the Company submitted to the Board a dispatch denouncing the conduct of a certain official and ending with his recall from his post; this dispatch, it was stated, was altered at Westminster into one of commendation, but with the sentence of dismissal unreversed, this being beyond the powers of the Board. The story, which related to the removal of Lord William Bentinck from the Governorship of Madras, was, however, put into its true proportions by a later witness; and it then appeared that all that the Board had done was to tone down in some degree the terms of the Company's censure.

It would be tedious to examine all the cases in which the Court and the Board disagreed over the question of their respective powers; but we may note in passing that Mr. Jones, the Assistant Secretary of the Board, declared before the Committee of 1832 that such cases were 'very few indeed,' and that, on the whole, 'a very extraordinary degree of harmony has prevailed.' Naturally these collisions occurred principally in the early years of the Board's existence; and perhaps the most important of all was the dispute in 1788 over the charging to Indian revenues of the cost of the royal regiments sent to India by Dundas without the concurrence of the Company—a dispute which was settled by an Act in the same year. So far as I am aware, only on two occasions was the resistance of the Directors pushed to its extreme limits. The first was over the case of a certain Major Hart, whose claims, on account

of rice supplied to the army before Seringapatam, the Board wished to settle on terms which the Court considered exorbitant. The controversy, which involved the question of the right of the Board to interfere in such matters, dragged on from 1808 to 1816, when, the Privy Council having decided against them and a mandamus having been obtained from the Court of the King's Bench, the Directors gave in and signed the dispatch as altered by the Commissioners. The second instance was a dispute that occurred in 1832 over a dispatch regarding the claims of the house of Palmer & Co. against the Nizam of Hyderabad. The Board altered the draft in a manner which the Directors disapproved; whereupon the latter, as an afterthought, declared the matter to be one outside the Board's scope, and claimed the right to withdraw the draft. The case was carried to the Court of King's Bench, where the judges decided that the Directors, by submitting the draft in the first place, had virtually admitted the competency of the Board to deal with it, and were not entitled to annul it at a later stage. A writ of mandamus was issued accordingly, and the dispatch was then signed and sent in the amended form.

As I have already remarked, it is no part of my present plan to deal at any length with the history of the Board. The first Commissioners were appointed by a warrant under the Great Seal dated August 31, 1784, and they held their inaugural meeting on the third of the following month, with Lord Sydney (the Foreign Secretary) in the chair. Under the terms of the Act, the Secretary of State was always to preside, if present; while in his absence, and that of the Chancellor of the Exchequer, the chair was to be taken by the senior of the Commissioners attending. As a matter of fact, from the beginning of the Board the duty of presiding fell generally to the Right Hon. Henry Dundas, the Treasurer of the Navy (afterwards Lord Melville). For instance, out of thirty-four meetings held during the first half of 1785, he took the chair at all but one—an

occasion when Lord Sydney happened to be present. Thus Dundas was virtually President from the commencement, not merely from 1793, when he was formally appointed to the post. Pitt himself, however, took an active interest in the work of the Board, and he actually presided at the meetings held during the first seven months of 1787, and also from April 1788 to March 1789. This he did, of course, in virtue of his position as Chancellor of the Exchequer, and doubtless he still left to Dundas the superintendence of the regular work of the Board.

Almost the first step taken by the Commissioners was to settle their staff of assistants. As already mentioned, the post of Secretary was given to Mr. Boughton Rouse. That of Under Secretary (an appointment abolished in 1797) went to the Hon. William Brodrick, M.P. Three clerks, a solicitor, an assistant solicitor, two messengers, an office-keeper, and a 'necessary woman' completed the establishment, quarters for which were found in the range of buildings then occupied by the Treasury in Whitehall. As it is mentioned later that the Board's office was adjacent to No. 3 Downing Street, it must have been at the southern end of the Treasury block. These premises were provided and kept up at the public cost, while all the other expenses of the Board, including the salaries of the staff (none of the Commissioners was as yet paid) were at this time defrayed from the same source.

Rouse's tenure of office as Chief Secretary lasted until May 1791, when he was succeeded by another Member of Parliament, Henry Beaufoy.[1] On the death of the latter four years later, the vacancy was filled by the promotion of the Under Secretary, the Hon. William Brodrick, M.P. He held it till November 1803, when he was made one of

[1] In his *Administration of the East India Company* (p. 129), Sir John Kaye prints a letter written by Beaufoy, in which he says that in the hands of his predecessors (*sic*) the office of Chief Secretary had been practically a sinecure, as papers were usually signed in circulation and the Board seldom met. The latter statement is certainly erroneous.

the Lords Commissioners of the Treasury. His successor at the India Board was Mr. (afterwards Sir) Benjamin Hobhouse, M.P., father of John Cam Hobhouse (Lord Broughton), the future President. It may be noted that the post of Chief Secretary was always held by a member of the Legislature, and that after a time it became the practice for him to go out of office with his party.

On the establishment of the Board, Dundas was sanguine enough to imagine that the King would desire to keep himself acquainted with all the proceedings of the Commissioners. He proposed, therefore, to send regularly to His Majesty copies of all drafts submitted by the Company, of the alterations made by the Board, of any correspondence resulting therefrom, and of all minutes of the Court of Directors. According to an endorsement on the document, this plan was actually carried out for about two years, after which it was discontinued, 'the papers being found too voluminous.'

As soon as the Board got seriously to work a practical difficulty arose. By the terms of the Act, any draft submitted by the Company had to be returned within fourteen days of its receipt. Doubtless, when the Bill was drafted, it was thought that such a period would allow sufficient time for discussion of the dispatch, while the limitation would prevent any delay in its issue. It was quickly found, however, that when a number of long and important drafts had to be considered about the same time by a body of men with other pressing duties, the period allowed was altogether insufficient; while the further requirement that any alteration made by the Board must be explained by a formal letter, signed by at least three of its members, added to the difficulty. The former obstacle was surmounted in the following ingenious fashion. When the Company's officials had framed their draft, and had secured its approval by the Chairman of the Directors, it was sent unofficially to the Board, accompanied by the necessary 'collection' of documents in support. There it was examined at

leisure by the appropriate officials and submitted to the President, or some other Commissioner designated by him, and was then returned to the East India House with amendments or suggestions. Up to this point the 'Previous Communication' (as it was termed) was entirely unofficial. It now entered upon its official stage. After submission again to the Chairman, who decided whether the alterations suggested at Westminster should be adopted or not, it was moulded into a 'draft,' which, when approved by the appropriate Committee and by the Court, was formally submitted to the Board. The latter, having already examined the document in its earlier form, could now deal rapidly with it. Of course, in cases where their previous recommendations had not been adopted, the Commissioners had to decide whether or not to insist upon these, and in the former alternative their reasons had to be stated in writing; but all this could be managed within the period allowed by law. As a matter of fact, according to the evidence given by the Company's Secretary before the Select Committee of 1852, more than half the 'Previous Communications' came back unaltered, while a large proportion of the changes in the rest were little more than verbal; of 'Drafts' officially submitted, not more than 5 per cent. were altered.[1] So convenient did this system of 'Previous Communications' prove that it was continued even when the limit of time was extended to two months by the Act of 1813; and it lasted, indeed, until the dissolution of the Board. As early as 1793 the labours of the Commissioners were relieved by a proviso in the Act of that year, permitting the Board's orders and explanations to be notified under the hand of the Secretary. Twenty years later the Assistant Secretary was likewise authorised to sign such notifications.

[1] We may note in passing that the alterations made by the Board in the Company's drafts were always written in red ink. This was doubtless the origin of the present India Office convention by which the Secretary of State uses red ink in making comments or corrections on the documents placed before him.

It is to be regretted that most of the 'Previous Communications,' which had an interest of their own as showing the parts played by the Company and the Board respectively in shaping the official drafts, have been destroyed, apparently in 1867, when the India Office moved to its present quarters.

Allusion has been made to the India Act of 1793 (33 Geo. III, c. 52). This measure, while extending for twenty years the term of the Company's monopoly, made certain changes in the constitution of the India Board. The limitation in number was abolished. The Commissioners were in future to be such members of the Privy Council (always including the two principal Secretaries of State and the Chancellor of the Exchequer) as the King might please to appoint, together with two others not of that body. The person named first in the royal warrant was to be President, his place being taken, in his absence, by the senior of the members present. A sum of £5000 a year was assigned for salaries to the Commissioners, to be apportioned by royal warrant, together with a further sum of £11,000 for the salaries of the staff and other expenses; and in future both these amounts were to be paid out of Indian revenues. Further, the controlling powers of the Board were increased in various directions which need not be specified.

In the first royal commission issued in consequence of this Act, the name of the Right Hon. Henry Dundas (then Home Secretary) stood at the head of the list, and he thereupon became formally what he had really been from the beginning—the chief member of the Board. By another royal warrant the £5000 provided for salaries was divided in the proportion of £2000 to the President and £1500 each to the two junior members of the Board, the others remaining unpaid and presumably doing little or nothing. With each change in personnel, a new warrant had to be procured; but the salaries remained at the same figures until 1811, when by Act 51 Geo. III, c. 75, the amount to be provided

yearly by the Company for the expenses of the Board was raised to £22,000, no restriction being placed upon the allotment of this sum. Thereupon the Prince Regent issued a warrant fixing the salary of the President at £5000, while two other Commissioners were to be paid £1500 each, as before. In 1813 (53 Geo. III, c. 155) the sum allotted to the Board was increased to £26,000, and provision was made for superannuating its officials; while in 1825 (6 Geo. IV, c. 90) the King was authorised to grant pensions to the President and the Secretary. Six years later the salary of the President was reduced by a Treasury minute to £3500, and those of the other two paid Commissioners to £1200. The Act of 1833 (3 & 4 William IV, c. 85) made further changes. The Lord President of the Council, the Lord Privy Seal, the First Lord of the Treasury, the principal Secretaries of State, and the Chancellor of the Exchequer were henceforth to be *ex officio* members of the Board, in addition to those named in each royal commission. No Commissioner was to be paid except the President, and the number required for a quorum was reduced to two; while in future there were to be two Secretaries, each with the same powers as the existing Secretary. The salary of the President remained at £3500 until 1853, when the India Act of that year (16 & 17 Vict., c. 95) provided that his remuneration should not be less than that of a Secretary of State, viz. £5000 a year. This alteration, it may be mentioned, was not in the original Bill, but was accepted by the Government on the motion of Mr. Vernon Smith.

Dundas remained President until 1801, when he quitted office on the resignation of Pitt. He had thus held the post formally for nearly eight years, and really for nearly seventeen—a period which was to prove by far the longest tenure in the history of the department. The East India Company evinced their gratitude for the help he had afforded in continuing their monopoly by giving him a pension of £2000 per annum; and further, after his death, they voted his executors a sum of £20,000 towards the liquidation of

his debts. At the time of his retirement a special mark of their regard was in preparation. In August 1800, Dundas had written to the Chairman to say that the quarters of the India Board had always been inadequate, and were now, owing to the increase of business, intolerably cramped. 'The room where the Board meet is small, noisy, and uncomfortable, and in fact I have not a room to myself in the whole office.' He suggested, therefore, that the Company should buy two commodious houses which then closed in the western end of Downing Street; one of these would make excellent premises for the Board, while the other might be allotted as an official residence for the President. This was rather a cool proposal, seeing that the Company had never been expected to find quarters for the Board, much less to provide a house for its chief; but the Directors made no objection. To further the scheme, Pitt himself wrote to the Chairman, assuring him that the Crown would prolong the lease on the existing terms, providing that the houses were still appropriated to public purposes. Thereupon (November 26) the Directors authorised the purchase of the two houses, at a cost of £6650 for the one on the northern side, belonging to Mr. James Martin, and £6300 for its neighbour, which was the property of Mr. Eliot. By the end of March 1801 Martin's house had been bought and was being fitted up for Dundas's use; but the situation was suddenly changed by his retirement from the post of President, and he announced that he did not wish the proposal pressed. The matter was debated at a General Court held early in April. Some suggested that the house and furniture should be placed at Dundas's disposal for the rest of his life; others thought that it should be made available for the new President; in the end the consideration of the matter was postponed *sine die*. About £4700 had already been spent, including the cost of adding part of Eliot's premises to the other house. The purchase of the former building had not been completed, and it was now left upon Eliot's hands, with compensation for the

part taken away. Dundas had some thoughts of buying the other house from the Company for his own use, but in the end it remained in their possession until April 1804, when it was bought by the Treasury for £9433, including fixtures. In August 1807 Dundas's son Robert, who was then President of the India Board, applied to the Treasury to make over the house (which was at that time in the occupation of Sir Charles Morgan) to him as his official residence. From a Treasury minute of May 1809, it appears that he was thereupon permitted to occupy the premises, though without any formal assignment of them; but in July 1809 mention is made of the impending transfer of the house to one of the public departments—probably the Colonial Office, which occupied both that and its southern neighbour for many years. The site of Dundas's house is now covered by the Whips' Office.

Meanwhile the Board's staff, which was steadily increasing with the growth of business, was finding its quarters at the Treasury far too small. In August 1804 John Meheux, the Chief Clerk, in a letter to the President, mentioned that two plans had been prepared for remedying this—one by adding a new storey, the other by rebuilding the office on the same site; both, however, had been set aside for want of funds. As the pressure was becoming intolerable, Meheux directed attention to two houses in the Privy (now Whitehall) Gardens. One of them, which had been occupied by a Miss Pelham, was in the market; the other, which adjoined it, belonged to the Comptrollers of Army Accounts, who, it was thought, might be willing to exchange it for the Board's existing quarters. Nothing came of the scheme, and matters remained as they were for another two years, when the question was raised afresh by a proposal to purchase a couple of newly built houses on the eastern side of Whitehall, opposite to the Pay Office. That plan also fell through; and then Meheux obtained permission from the President to buy No. 3 Downing Street, which adjoined the existing office of the Board. This house had

been for some time unoccupied, and its acquisition cost the Treasury (September 1806) only about £250.

Before long there was fresh trouble. In 1808, when the house next door to No. 3 was repaired, the party wall between the two was found to be in such a rotten state that its rebuilding was imperative. The front wall was in almost as bad condition, and the cost of the whole operation was estimated at about £550. As the expenditure was unavoidable, the Treasury agreed to the outlay; but after a while the work was stopped by a new development. Towards the close of 1808 it was learnt that the premises were intended to be given to the Home Department, whose office was wanted by the Treasury, and that the India Board was to be accommodated in Dorset House, Whitehall. The Secretary was thereupon directed to write to My Lords for particulars and to ask for a voice in the new arrangements. In May 1809 rooms were being fitted up for the Board in Dorset House, and the transfer appears to have taken place about a year later. No. 3 Downing Street was made over to the Privy Council. Its demolition was not long deferred, and its site was absorbed into the remodelled Treasury buildings.

Dorset House stood on the western side of Whitehall just to the south of Dover House; to-day its site is covered by the northern part of the Treasury buildings in that street. The premises, which belonged to the Dorset family, were purchased by the Crown under an agreement made in 1808, though the transfer was not concluded until two years later (Sheppard's 'Royal Palace at Whitehall,' p. 162). Evidently the India Board became the first public tenants. Practically the only subsequent reference to the premises in the Board's records occurs in May 1815, when the Board of Works was asked to make a vault under the paved yard for the storage of firewood, and also to substitute an open iron gate for a closed door at the backway to the Office from the Treasury Passage.

The records are equally silent about the next (and final)

move. We learn, however, from the second report of the Select Committee of 1830, that in 1817 the India Board removed to a separate office in Cannon Row. This was a building erected in the previous year for the Transport Office, on the site of the office of the Ordnance Board.[1] It stood on the eastern side of the street, and was designed by William Pilkington, in the Classical style, with a stone front graced by a large Ionic portico at the top of a sweep of steps. At the back the grounds ran down to the river, and the best rooms were on this side, the President occupying a large apartment in the centre, with offices for the secretaries on either side (see a plan in sessional volume No. 41 of 1857). It is to be noted that this building also was provided and maintained by the Government, not by the East India Company.

As a supplement to this account of the various buildings occupied by the Board, something may now be said concerning the staff that inhabited them. In September 1807 the President (Robert Dundas) introduced an important change in the organisation of the office. Ten years earlier his father had divided the clerks into three departments, to deal respectively with matters relating to Bengal, Madras, and Bombay. This geographical arrangement was now abandoned, and the work was distributed into four branches, viz. (1) Secret and Political, (2) Revenue and Judicial, (3) Military, (4) Public and Commercial.[2] These branches, each of which was under the charge of a senior clerk, were practically parts of one general

[1] There had evidently been some idea of moving the Foreign Office thither, for the *Times* of February 29, 1816, states that 'the new building now erecting in Cannon Row, Parliament Street, which was intended for the Transport Office, is, in consequence of the abolition of that department, to be used as the Secretary of State's office for Foreign Affairs, which will be removed from Downing Street, the lease of the premises at present occupied having nearly expired.'

[2] The Revenue branch was separated from the Judicial in 1826, and by 1838 there was a fresh branch for financial business, under the Accountant. Legislative business was transacted by the Judicial branch, Marine and Ecclesiastical by the Public.

correspondence department, at the head of which stood the Assistant Secretary. Elaborate rules were laid down at the same time for the making of abstracts, the compilation of arrears lists, and the due preservation of the Board's records. Next the President turned his attention to another matter vitally affecting the staff. For years the clerks had been complaining that the fixed salaries allotted to them by royal warrant had become inadequate, owing to the increased cost of living; at the same time they urged that their work was growing both in bulk and in importance, and that their remuneration contrasted unfavourably with that given in other public departments. An attempt had been made to remedy the grievances by giving allowances, drawn from the contingent fund of the office; but here again a difficulty had arisen, inasmuch as the establishment was a growing one, while the total sum available was strictly limited by law. The question of applying to Parliament to increase the allowance had been considered by successive Presidents, but always postponed. Now, however, Dundas found it possible, by effecting certain economies, to institute a fresh scale of salaries; and this staved off Parliamentary action until the Act of 1811, already mentioned, placed another £6000 a year at the disposal of the Board. A new scale was then introduced, under which the junior clerks received from £150 to £400 per annum, the seniors £400 to £600, the Chief Clerk £600 to £800, the Assistant Secretary £900 to £1200, and the Secretary £1500. A Librarian was also appointed, at £200 a year, to act in addition as Keeper of the Records. However, the expenditure continued to grow, and, in spite of the extra sum provided by the Act of 1813, the financial situation in 1822 was so bad that not only were all increments suspended, but temporary abatements had to be made. The paid members of the Board agreed to a reduction of their salaries by one-tenth, and a similar decrease was ordered in the pay of the Secretary. The alterations made nine years later in the salaries of the Board enabled matters to be adjusted;

and thereupon the suspensions were removed and the arrears were paid. Henceforward we hear of no further complaints on this score.

Interesting allusions to office matters occur from time to time in the records of the Board. Apparently the bonds of discipline were slack in the early days. Mention is made in June 1800 of the fact that one of the clerks, who had enjoyed 'almost constant leave of absence for some years' (presumably without pay), desired to rejoin; he was permitted to do so, but evidently his holiday-making propensities again asserted themselves, for in the following February he was dismissed on the ground that he had absented himself without leave for many months past. Soon after we learn that a clerk who had been 'deprived of his eyesight by the visitation of God' was allowed by the Board to draw his full salary as a sort of pension, there being as yet no retiring allowances. In July 1821 attention was drawn by the Secretary to certain irregularities in the attendance of the staff, particularly as regards the summer holiday; and thereupon the Board laid down its views on the matter. The three months August, September, and October were to be looked upon as the recess period. During this time the heads of the various departments were to 'give themselves such relaxation as they may find necessary,' taking care to maintain sufficient staff to carry on routine duties; the clerks in general were to be allowed six weeks each; and the juniors were warned to be more punctual in their attendance for the future. In August 1839 the President noted that he had received complaints of bad writing in documents sent out; wherefore he directed that in future these should be written 'carefully, in a large and plain hand.' It was not until 1855 that any educational test was applied to candidates for employment. In that year it was decided that for the future any such candidate should furnish particulars of his education, and should be examined by the Assistant Secretary in the 'elementary rules of arithmetic and ordinary composition of letters.'

All appointments were to be probationary for the first year.

It is rather surprising to find a native of India acting as a clerk in the office of the Board. This happened in 1835–38, and is part of an interesting story. Many years before, an Englishman in the Company's service, while attending a religious festival at Hardwar, found a little Indian boy wandering about forlorn and destitute, his parents having either died or lost him in the crowd. Taking pity on the child, he carried him down to Calcutta, and, being himself on his way to England, asked Ram Mohun Roy, the celebrated Bengali religious reformer, to take charge of him temporarily. However, the good Samaritan died at sea, and the boy grew up under the care of Ram Mohun Roy, who treated him as a son, though he did not formally adopt him. When in 1830 Ram Mohun Roy, now dignified with the title of Raja, embarked for England to claim certain lands from the Company on behalf of the Great Mogul, he took with him Rajaram Roy, as the youth was named. Ram Mohun Roy, though his mission proved unsuccessful, was much lionised in England and France, largely on account of his enlightened views on religious matters; and much regret was expressed when he died at Bristol in the autumn of 1833. Rajaram Roy, thus left alone in a strange land, was doubtless befriended for a while by the admirers of the deceased Raja; but in time he found himself obliged to look around for means of support. In August 1835 he was appointed by Sir John Hobhouse[1] (then President) an 'extra clerk' in the office of the India Board for one year at a salary of £100, on the plea that he desired to obtain some insight into the system of transacting public

[1] In his diary (under date of March 18, 1837) Hobhouse mentions giving a dinner party at which the youth was present. 'The Rajah,' he says, 'is really a very superior young fellow. He gave us a very entertaining account of a walking tour in Scotland. On one occasion he went up to an old woman who was working in a field and asked his way; the woman raised her head suddenly, and exclaiming "The de'il! the de'il!" ran away.' (*Recollections of a Long Life*, vol. v. p. 68.)

business before returning to his own country. His engagement was continued until the spring of 1838, when, as he was about to embark for India, the Board resolved to pay him up to the following August and to give him a gratuity of £100. His subsequent history has not been traced.

By this time the Commissioners had long ceased to be a Board in any practical sense. When, early in 1816, Lord Buckinghamshire died as the result of a riding accident, there was a prolonged vacancy in the post of President. The other Commissioners met as usual, down to June 24, 1816, on which occasion Lord Sidmouth (the Home Secretary) presided. Then suddenly, without a word of explanation, the minutes of meetings cease. The change was evidently due to the new President, the Right Hon. George Canning, but his reasons can only be surmised. Probably he thought it a waste of time to hold formal assemblies, when documents could be either signed in circulation or disposed of after discussion between himself and the two paid Commissioners; while, if either of the latter was unavailable, it was easy to obtain the signature of some other member.

As we have seen, the Act of 1833 abolished the two paid Commissioners and made only one signature necessary in addition to the President's. The royal warrant of July 1837 nominated, apart from the President and the *ex officio* members, only one Commissioner—the Right Hon. John Sullivan, who had been a member of the Board for twenty-five years; and when Sullivan died, at the age of ninety, on November 1, 1839, the President (Sir John Hobhouse) carried on the administration unaided. The next commission (September 1841) named only one person, the President (Lord Ellenborough), and henceforward this became the regular practice. Nevertheless, right down to the end, the signature of an *ex officio* member was still obtained, in addition to the President's, for every document of importance, thus making up the quorum required by the Act. The late Sir Henry Waterfield once told me that, as a junior clerk at the Board, it was a part of his

duties to obtain this second signature, and that he usually went for the purpose to the Lord Privy Seal.

Time will not permit of my dwelling upon the many eminent men who filled the office of President; and this is the less necessary, in that their careers are part of the political history of the time. Nor is it possible to go *seriatim* through the list of Secretaries.[1] In one case—that of Mr. Robert Vernon Smith (son of 'Bobus' Smith, and afterwards Lord Lyveden)—the tenure of the secretaryship was followed some years later by appointment to the post of President; and many other Secretaries were young politicians who in due course filled more important offices. Such were the Hon. Sidney Herbert (afterwards Lord Herbert of Lea), Lord Sandon (afterwards Earl of Harrowby), and Robert Lowe (who became Viscount Sherbrooke). Several, too, were men who made something of a mark in literature. Thomas Peregrine Courtenay, who held the post from 1812 to 1828, and was then an unpaid Commissioner for two years longer, published commentaries on Shakespeare and a biography of Sir William Temple. His predecessor had been John Bruce, author of the well-known 'Annals of the East India Company.' The poet Praed was the Secretary in 1834–35; while James Emerson Tennent, traveller and writer on Ceylon, held the post in 1841–45, and was succeeded by Viscount Mahon, the future Earl Stanhope, the historian. Sir George Cornewall Lewis, Secretary in 1847–48, is remembered both as a politician and as a man of letters.

Best known of all was Thomas Babington Macaulay, who, after being a Commissioner for about six months, accepted, in December 1832, the post of Secretary, left vacant by the death of his friend Thomas Hyde Villiers.

[1] The names of the various Presidents will be found in the *India Office List* and other works of reference. A full list of the Commissioners is given at p. 367 of the Thirty-first Report of the Deputy Keeper of Public Records (1870), but it starts only from 1790. Another list (omitting *ex officio* members) is contained in Haydn's *Book of Dignities*, together with a chronological list of the Secretaries.

This appointment Macaulay held until after the passing (which he did so much to promote) of the India Act of 1833, when, as is well known, he proceeded to India as the first holder of the post of Legal Member of the Governor-General's Council. Several amusing letters to his sisters give us glimpses of his life at the Board. He at once plunged into an active study of Indian politics, and wrote that he was 'in fair training to be as great a bore' as if he had himself been in India. A few weeks later he says that he has 'the Rajah of Travancore to be kept in order, and the bad money, which the Emperor of the Burmese has had the impudence to send us by way of tribute, to be exchanged for better.' In June 1833 he sends some rhymes about the welcome approach of the quarterly pay-day; and in the following month he describes himself as sitting in his 'parlour' at the office in Cannon Row, 'looking out on the Thames,' with his attention divided between writing to his sisters and 'a bundle of papers about Hydrabad.' It is unnecessary to quote his allusions to the progress of the India Bill, and later to his appointment as Legal Member. Nearly twenty years after, he had the opportunity of becoming President of the Board. He writes in his diary, under date of January 31, 1852:

> 'I see that Lord Broughton retires, and that Maule goes to the India Board. I might have had that place, I believe: the pleasantest in the Government and the best suited to me; but I judged far better for my reputation and peace of mind.'

The Act of 1833, by destroying finally the commercial character of the East India Company, placed practically the whole of its transactions under the control of the Board. The importance of the latter body was, in fact, continually increasing. From the beginning the furnishing and presentation of all returns required by Parliament, as also all negotiations with the War Office, Admiralty, or other Government departments, had been in the hands of the Board; and with each fresh Act affecting India its functions

were strengthened and added to. When, therefore, the duty of revising the legislation of 1833 came up automatically in 1852, the question uppermost in many minds was whether there was any reason to continue the Company's share in the administration of India, or whether the time had not arrived to entrust the entire business to the Board, either as then constituted or with a Secretary of State at its head.[1] Lord Ellenborough, in his evidence before one of the Select Committees appointed to report upon the subject, strongly advised the direct government of India by the Crown, and suggested that the President of the Board should be assisted by an advisory council of twelve members with Indian experience. The witnesses on the Company's behalf were, of course, opposed to any drastic alteration of the existing situation: John Mill, in particular, declared that to place the administration in the hands of a Secretary of State for India would create 'the most complete despotism that could possibly exist in a country like this,' owing to the absence of any effective check on the part of Parliament or the country in general. However, the Government was too weak and too much absorbed in other questions to take a strong line on the subject of India; and a makeshift measure was passed in August 1853, which practically continued the existing system, though not for any specified period. One alteration was significant. The Court of Directors was reduced from twenty-four to eighteen members, six of whom were to be appointed by the Crown from among persons who had served in India for at least ten years, while of the remaining twelve (elected by the Company) half were to possess a like qualification. From this it was an easy transition, five years later, to the Council of India, which was composed in the first instance of eight

[1] It is interesting to note that Mr. B. S. Jones, Assistant Secretary to the Board, when giving evidence before the Select Committee of 1832, mentioned that at the time of the renewal of the Company's charter in 1813 he had suggested to the then President the expediency of creating the post of Secretary of State for India (to include the charge of the Cape, Ceylon, and Mauritius).

members appointed by the Crown and seven elected by the Directors.

As regards the India Board, practically the only changes made by the Act of 1853 were the increase (already mentioned) in the salary of the President, and the stipulation that for the future only one of the Secretaries should be a member of the Legislature. This meant that one Secretary was to be a permanent head of the department, while the other would change with the Ministry. As a matter of fact, the arrangement only perpetuated the state of things then existing; for since January 1853 one of the secretaryships had been held by Sir Thomas Redington, K.C.B., who, although he had been M.P. for Dundalk from 1837 to 1846, had then resigned his seat on his appointment as Under Secretary to the Lord Lieutenant of Ireland. As he had not sought re-election, and was willing to abstain from active connection with his party, he was now declared to be the Permanent Secretary contemplated by the Act, his colleague, Mr. Robert Lowe, being regarded as the Parliamentary Secretary. Redington resigned in March 1856, on his appointment to a post in Ireland; and he was succeeded by Sir George Russell Clerk, K.C.B., an old servant of the Company, who had held the offices of Lieutenant-Governor of the North-Western Provinces and of Governor of Bombay (a post to which he returned in 1860).

The end was now rapidly approaching—an end inevitable in any case, but hastened by the sensation created in Great Britain by the mutinies of 1857. It is unnecessary to detail the history of the three India Bills produced in succession during 1858 by the Governments of Lord Palmerston and Lord Derby, or to explain at length the provisions of the last (Lord Stanley's), which received the royal assent on August 2 of that year. Every one knows that it put an end to the Company's share in the government of India, and placed the home administration in the hands of a Secretary of State for India, assisted by a Council. The

change was actually made on September 2, 1858, when Lord Stanley, the President of the Board, became the new Secretary of State; while the two Secretaries, Mr. H. J. Baillie, M.P., and Sir George Clerk, were appointed respectively the Parliamentary and the Permanent Under Secretaries of State. The post of Assistant Under Secretary of State and Financial Secretary was given to Mr. J. C. Melvill, the Deputy Secretary of the Company; and the establishments of the Board and the Company (relieved by a number of retirements from each office) were amalgamated to form the staff of the new India Office.

Another building was obviously necessary, since the premises of the India Board were far too small for the enlarged establishment, while those of the Company were unsuitable by reason of their distance from Westminster.[1] For the present, however, it was decided to utilise the East India House; and there the new department remained until, in 1860, pending the erection of the present India Office, it found temporary quarters in the newly completed Westminster Palace Hotel. The building in Cannon Row was used for a time to house the India Office library and part of the records; and when no longer needed for this purpose, was made over to the Civil Service Commissioners. Within the memory of most of us it was pulled down, and its site is now covered by the headquarters of the Metropolitan Police.

[1] When the Bill of 1853 was under consideration, Mr. Bright unsuccessfully moved a clause enacting that the business of both Board and Company should be transacted in one building, and empowering the Directors to sell the Leadenhall Street house to provide funds for a new office.

THE TREASON LEGISLATION OF HENRY VIII (1531–1534)

ALEXANDER PRIZE ESSAY, 1916

By Miss I. D. THORNLEY, B.A.

Read June 21, 1917.

ALL legislation is to some extent the product of circumstance, and none more so than the numerous Acts which have from time to time augmented or reduced the law governing high treason. The basis of that law has been since 1352 the famous Act of 25 Edward III, stat. 5, c. 2, and this Act itself was moulded by the circumstances under which it was passed. Edward III was at the height of his power and popularity, so that in defining treason it was only necessary to include offences likely to be committed against a popular king reigning by an undisputed title.[1] This accounts both for what the Act contains and what it omits, and is the reason for that sufficiency in quiet times which has preserved it for over five centuries. It accounts also for its inadequacy in crises and disturbances, and the need to supplement it under such kings as Richard II and Henry VIII. New treasons are thus emergency measures to enable the Government to cope with particular situations; when the troublous times are over, they and the offences with which they deal disappear naturally with the circumstances which provoked them, and the Act of 1352 once more reigns supreme. When considering the causes of its long life, it must be remembered that Treason Acts fall into two classes: those augmenting and those diminishing the scope of the offence. The Act of 1352 belongs to the latter class. It was passed to bridle the judges in the creation of constructive treasons—a process

[1] Stephen, *Hist. of Criminal Law*, ii. 250.

which had alarmed Parliament[1]—and, unlike all other Acts of its class, it did not follow a revolution or period of crisis, as the Act of 1 Henry IV, c. 10, followed the reign of Richard II; 1 Edward VI, c. 12, that of Henry VIII; and 1 Mary, c. 1, that of Edward VI.

After 1529, Henry VIII had to deal with one of the greatest revolutions in English history. Revolutions, however popular, entail disturbance and danger, and the English Reformation was no exception to the rule. Henry's various divorces and re-marriages, and the consequent succession difficulties, further complicated the problem. Hence it was necessary from time to time to supplement the Law of Treason, usually by clauses in Acts the chief business of which was to limit papal jurisdiction, or to declare the queen of the moment Henry's lawful wife and to sweep aside her predecessors and their children. One Act, however, was passed which had the augmentation of the Law of Treason as its prime object—26 Henry VIII, c. 13. The year of its passing, 1534, was the beginning of that period of terror which lasted until the fall of Cromwell in 1540. Henry had just destroyed papal jurisdiction in England and realised to the full the almost unlimited possibilities of his own strength, and in the next ten years the Reformation was to be 'unalterably riveted upon the English people.'[2] The history of the years 1529 to 1534, and all that Henry had already planned to follow 1534, are responsible for this Act and its provisions.

As far back as January 1530–1 the advisability of passing a new Treason Act had come home to the Government, and a draft Bill had been prepared. The subject came up again at the session of January 1531–2, and then, as the Bill did not meet with the approval of Parliament, it was abandoned until the second session of 1534, when the Act was finally passed. The events of the four crowded years which intervened between the first suggestion of the

[1] *Cf.* their petition, *Rolls of Parliament*, ii. 239a.
[2] H. A. L. Fisher, Longman's *Political History*, v. 328.

Act and placing of it on the Statute Book profoundly affected it in substance, and since five[1] drafts remain, it is possible to trace its evolution and to see how it was modified by circumstances. Three of the drafts are of the Bill proposed in 1531 and 1532, the first two of which are calendared in the 'Letters and Papers of Henry VIII' as vol. v, No. 52 (1) and (2), and the third, which has been misplaced, as vol. vii, No. 1381 (5). The other two are of the Bill of 1534, calendared in the wrong order as 'Letters and Papers,' vol. vii, No. 1381 (4) and (3).[2] Each draft contains the date on which it is to come into force if passed: the first, March 6, 1530–1; the second and third, January 6, 1531–2; the first draft of the Bill of 1534, January 1, 1534–5; the second, February 1 of the same year.

These dates support the conclusion that the arrangement of the drafts in the Calendar is incorrect. Their chronological order is placed beyond doubt by an examination of the additions and corrections freely made in all of them. For instance, the first (A1) contains a clause offering pardon and reward to a conspirator who turns informer as a draft addition by the corrector on the back of a sheet; the second (A2) incorporates it as part of the text prepared by the copying clerk; it appears again in the third (A3), and is there struck out. At the end of the first draft of the 1534 Bill (B1) the correcting hand has added a draft clause making certain words misprision of treason, which is incorporated in the clerk's text of the second draft (B2), and struck out in correction. Further, save for one small word,[3]

[1] The earliest is made up of pieces of two pasted together, so at least six were prepared.

[2] The order of the drafts may be more clearly explained by a diagram.

Bill of 1531 *and* 1532 (A).	*Bill of* 1534 (B).
A1. *L. & P.*, vol. v, No. 52 (1).	B1. *L. & P.*, vol. vii, No. 1381 (4).
A2. *L. & P.*, vol. v, No. 52 (2).	B2. *L. & P.*, vol. vii, No. 1381 (3).
A3. *L. & P.*, vol. vii, No. 1381 (5). (Copy of the corrected form of A2).	(Copy of the corrected form of B1.)

[3] *Statutes of the Realm*, iii. 509, § iii. 1. 8, reads: 'Everie inditement and presentment founden *and* made of any such treasons.' The draft has 'founden *or* made.'

this second draft, read with its corrections, is exactly like the Act as printed in the 'Statutes of the Realm,'[1] which is proof positive that it is the final form.

All five drafts are corrected in the same handwriting, and on this point also the 'Calendar of Letters and Papers' is at fault. The first is simply noted as 'corrected draft,' the second as 'corrected by Cromwell,' and the third, contemptuously thrown in, in the wrong place, as 'draft differing considerably from the Act as passed,' is not favoured with any remark. The first draft of 1534 is 'partly corrected by Lord Chancellor Audeley,' and the second is also 'corrected by Lord Audeley.' As a matter of fact, a comparison of the corrections with each other and with other documents proves beyond doubt that, except in a few minor instances in the final draft (B2),[2] the whole of the corrections were made by one hand, and that hand was Cromwell's.[3]

This fact sheds light on the amount of influence which Cromwell already possessed in 1531. Chapuys and the other foreign ambassadors did not realise till 1533 that he was all-powerful with the King, any more than did the people at large, from whom concealment of his influence on unpopular changes was necessary as a protection. But it seems agreed that his sudden rise into prominence in 1533 would have been impossible had he not previously earned that promotion by important services to his royal master.[4] The fact that in the winter of 1530–1 he had already risen so high in the royal favour as to be correcting and adding to draft legislation which the Government was about to propose to Parliament shows how early and how strongly his influence was established, and how it affected the changes made before it was safe to reveal that any one but

[1] *Statutes of the Realm*, iii. 508–9.

[2] *E.g.* the alteration of a date overlooked by the chief corrector.

[3] Mr. Brodie very kindly examined the drafts and confirmed my opinion on the points of arrangement and handwriting.

[4] H. A. L. Fisher, Longman's *Political History*, v. 296. R. B. Merriman, *Life and Letters of Thomas Cromwell*, i. 90–91.

the King was the author of them. His influence on legislation from 1533 to 1540 is undisputed;[1] from these drafts, and from the memoranda which bear on them, it appears to have been equally great from 1531 to 1533. Further, in 1531 and 1532 he was busy finding out and extirpating 'seditious opinions' in regard to Henry's policy for the control of the clergy and for the obtaining of his divorce and re-marriage, so it was natural that the preliminary steps towards new and oppressive treason legislation should be taken by him. It is said by his biographer that he began to create a system of espionage early in 1532—an organised method of reporting treason which in a short time rendered unsafe the most guarded expression of dissent in politics or religion.[2] That he had planned, or perhaps begun, this system at least a year earlier is proved by the fact that on the back of a sheet of the first draft (A1) he added a clause offering pardon and a reward of one quarter of the lands and goods to be forfeited by the offenders to any conspirator who would betray his fellows 'to the intent that treasons . . . may the sooner be discovered and brought to knowledge.' His influence both on the Bill of 1531–2 and the Bill of 1534 was very great; how much the final form owed to him will be discussed after it has been dealt with in more detail.

The Bill prepared for the Parliament which met in January 1530–1 runs as follows: It shall be treason if any person, being lawfully monished personally to appear before the King, contemptuously resort to any of the King's castles in England, Wales, Ireland, or the town and marches of Berwick, there keeping himself by force and refusing to come to the King's presence. Also if any person, being the King's natural subject, for malice engendered in his heart against the King contemptuously leaves the realm and binds himself by oath or otherwise to be subject to a foreign prince or noble person, thereby renouncing his due allegiance. Also if any person being the King's natural

[1] Merriman, *ut supra*.

[2] Merriman, *op cit.* p. 99.

subject living under the dominion of any foreign prince or community maliciously work, counsel, or procure the hindrance of the King or his ambassadors, messengers, or servants in any of the King's outward affairs, or otherwise cause any disturbance or trouble to such ambassador or servant whereby the King's affairs in those or any outward parts are stopped, hindered, or deferred. Also if any person bring into the realm, or publish or put in execution within the same,[1] any writing or commandment brought from abroad which shall be to the dishonour or slander of the King's person or to the damage or diminishing of his crown, majesty, or royal jurisdiction. The above treasons, if committed out of the realm or in any place where the King's writ does not run, shall be tried by verdict of twelve men in any shire of the realm like treason committed in that shire. A conspirator who shall betray his fellow-plotters to the King or any of the Council, so that they may be taken and convicted, shall be pardoned and receive one quarter of the forfeited inheritances and goods as reward.

The first clause is crossed out—no doubt for the reason that, as it stands, it makes no alteration in the law. Forcible detaining of the King's castles amounted to levying war, and was therefore already treason.[2] To leave the realm without licence, which the word 'contemptuously' seems to imply,[3] was an offence of long standing, and many regulations had been made to guard against it.[4] It is doubtful, however, whether such departure from the realm and swearing allegiance to a foreign prince amounted to the treason of adhering to the King's enemies, though it had always been a maxim of the Common Law that a man cannot divest himself of his allegiance or transfer it to a foreign

[1] A1 adds 'to the King's own person.' This does not appear in A2 and A3.

[2] Foster, *Discourse of High Treason*, p. 219.

[3] A2 and A3 replace 'contemptuously' by 'without the King's licence.

[4] Coke, 3 *Inst.*, chap. 84, deals with the subject and gives references. See also Acts of 5 R. II. stat. 2, c. 1, and 13 R. II. stat. 1, c. 20.

prince; and it was held long afterwards that the latter cannot, by employing such a subject, dissolve the bond of allegiance between him and the sovereign to whom he was born a subject.[1]

To hinder the King's ambassadors or prejudice his foreign affairs was an offence for which it would have been hardly necessary to provide before the expansion of England under the New Monarchy. It reflects the increasing complexity of diplomatic relations, and was especially necessary under such a king as Henry VIII, when opposition to the royal policy was strong, and half-friendly foreign courts were ready to welcome fugitives.

The clause making it treason to bring in, publish, or put in execution, writings to the dishonour of the King or his regality is a link in the long chain of enactments and decisions intended to curb papal interference in England. By Common Law a writ *Ad jura regia* lay against any person who by pretext of any foreign power impugned or attempted to frustrate the laws of the realm.[2] Under Edward I a subject who brought in a bull of excommunication against another subject, his opponent in a law-suit, and published it to the Lord Treasurer, was by Common Law adjudged guilty of treason against the King, his crown and dignity, and sentenced to be drawn and hanged.[3] The sentence was commuted to abjuration of the realm at the intercession of the Chancellor and Treasurer, and there seem to be no more instances of so severe a punishment for such offences, which soon began to be dealt with in the manner later associated with praemunire.[4] The year of Edward III's Treason Act saw also the Statute of Provisors,

[1] Case of Doctor Story, 13 Eliz., Dyer's *Reports*, ff. 298*b* and 300*b*. Case of Æneas Macdonald, 21 Geo. II., *State Trials*, xviii. 859.

[2] Coke, 3 *Inst.* p. 100.

[3] Coke's *Reports*, v. 12*a*, 12*b*, in Caudrey's case: 'De jure regis ecclesiastico.' Coke specially notes that 'this was by the Common Law of England before any statute made.' *Cf.* Brooke's abridgment: Treason 14, Praemunire 10.

[4] Coke's *Reports*, v. 12*b*, case of the Archbishop of York under Edw. I; *ibid.*, 15*a*, case under Edw. III; *ibid.*, 16*b*, case of the Abbot of Waltham.

based on Edward I's Statute *De asportatis religiosorum*, by which both those who obtained bulls of provision from Rome and those who executed them were declared to be out of the King's protection and might be treated as his enemies. Two years later came the Statute of Praemunire, and these two were the basis of all future law on the subject.[1] Henry VIII's object in raising the offence to the rank of treason was to protect himself against papal attacks on his matrimonial proceedings.

The clause providing for the trial of these treasons, if committed out of the realm, filled a gap in the Common Law, by which they were not triable.[2] The offer of pardon and reward to an informer was an addition of Cromwell's.

The circumstances which produced this Bill, and which make its provisions intelligible, were of the kind which usually prevail when laws creating new treasons are enacted. It was a time of crisis and political unrest. Henry's anti-papalism had from the first been popular,[3] but not so the divorce which it was the object of that anti-papalism to obtain. Anne was hated, Catharine and Mary beloved; and the repudiation of papal jurisdiction, which seemed to be the only way to obtain what the King desired, might well bring war with the Emperor, taxation, and the stoppage of the wool trade with Flanders. This would alienate the commercial middle class—Henry's one strong and sure support—and rebellion and deposition were among the

[1] *Cf.* 1 Hawkins, *P.C.* chap. 19, *Of Praemunire.*

[2] So decided Trin. 2 & 3; P. & M. Dyer's *Reports*, ff. 131*b*–132. Coke, 3 *Inst.* p. 11, says: 'The offender shall be indicted and tried in this Realme where his land lyeth, and so it was adjudged in 2 Hen. IV.' In this case, however (Pasch. 2 Hen. IV, *Coram Rege*, Rex, rot. 18 Salop), it was decided that treason committed out of England, where English law does not extend, cannot be inquired of and tried in England. Coke has transposed the facts. Treason committed out of the realm could, however, be tried in England by process of appeal in the Court of the Constable and Marshall, which administered Civil Law. *Cf.* 1 Hen. IV. c. 14, *Statutes*. ii. 116. Vernon Harcourt, *His Grace the Steward and Trial of Peers*, gives cases which illustrate the point, *e.g.*, on p. 383.

[3] *L. & P.* iv. Introd. p. dv, and No. 5797, cited by A. F. Pollard. *Henry VIII*, p. 251. *L. & P.* v. 45.

possible consequences. It was the support of this dominant class, and their antagonism to those above and below them, which kept Henry on the throne and enabled him to ignore the discontent which was rife amongst other sections of his people. Against a united people, or a partial revolt which was well organised and really popular, Henry would have been powerless.[1] Since the opening of the Reformation Parliament in 1529 he had been able to take advantage of its strong anti-clerical and anti-papal tendencies in working towards his desired end; still, no one, save perhaps he himself, could tell what might follow a definite breach with the Papacy; and the fear of taxation and commercial loss might have disastrous effects on that dominant commercial class on whose support he chiefly leaned. It was well that the Government should have some safeguard against attempted rebellion and the stirring up of foreign enemies, while at the same time a blow might be struck against the papal prerogative and its English supporters. Hence possible rebels were provided for by the clause against those who seized and held castles and despised royal commands, and traitors endeavouring to embarrass Henry's policy abroad by those as to leaving the realm, swearing allegiance to a foreign prince, and hindering ambassadors.

The clause against writings or commandments to the dishonour of the King, or diminishing of his prerogative, also reflected recent events. In March 1530, papal bulls had prohibited Henry, under pain of the greater excommunication, from proceeding to his projected second marriage, and had forbidden all ecclesiastical judges, doctors, advocates and others to speak or write against the validity of the first.[2] Henry had already a weapon against such fulminations in the Law of Praemunire, and he was not slow to use it. In September 1530 a proclamation, based on that law, forbade the purchase from the Court of Rome or the publication of anything prejudicial to the realm or to the King's

[1] A. F. Pollard, *Henry VIII*, pp. 313–314.
[2] *L. & P.* iv. 6256, 6279.

intended purposes.[1] Despite this, an Anglo-French embassy in October found Clement resolved to continue his aggressions.[2] Evidently the Law of Praemunire was not a sufficient safeguard.[3] Nor were the penalties of praemunire severe enough to satisfy Henry; to bring in or publish such attacks on his doings, and thus by implication to hold that the papal jurisdiction was superior to the royal prerogative, should be nothing less than high treason. In the autumn of 1530 it had already been considered that writing to the Pope to be reinstated in his possessions, and asking for sentence of excommunication against Henry if he did not banish Anne from Court and treat Catharine with due respect, was sufficient basis for a charge of treason against Wolsey.[4] The information against the clergy for praemunire in having acknowledged the Cardinal's legatine authority filed by the Attorney-General in December 1530, simultaneously with the inception of the Bill creating new treasons, was another branch of the same general attack on papal jurisdiction in England.

The fate of this first Bill is uncertain. That it was troublesome to prepare is evident from the fact that parts of two separate drafts go to the making of the one existing, and from the alteration and correction to which it was subjected. No Journals of either House being extant, it is impossible to follow its progress; but it is more probable that it was left unfinished at the end of the session, or perhaps through some accident not introduced, than that it was rejected or committed to be reformed; for in that case the drafts prepared for the next session would have differed more from the first than the second and third in fact do.

The next move in the attempt to secure the new Treason

[1] *L. & P.* iv. 6615. Cf. *ibid.*, 6759.

[2] *Cf.* Fisher, *Polit. Hist.* v. 304.

[3] Attempts, which do not seem to have had much effect, had been made in January 1530–1 to impress Chapuys and the papal Nuncio with the heinous nature of the crime of importing bulls without the King's consent (*L. & P.* v. 45).

[4] *Cf.* Fisher, *Polit. Hist.* v. 305–6.

Act was made in the autumn of 1531, when a paper of royal instructions to Cromwell 'to be declared to the Council and undelayedly put in execution this Michaelmas term, 23 Henry VIII,' includes the command: 'The Bill of Augmentation of Treasons to be ready against Parliament.'[1] The circumstances did not differ widely from those under which the first Bill was prepared. The bonds of Rome were not yet broken, though the clergy had made a qualified recognition of the royal supremacy, and the divorce loomed nearer and more distinct. Safeguards against rebellion were more than ever necessary; for the second marriage, which it was now clear that the King was determined to carry through, was no more popular than before. A riot had followed the demand for Convocation's subsidy from the London clergy, and Henry, watchful as he always was of the temper of the nation, must have noted the danger-signs.[2] So in the Treason Bill prepared for Parliament the clauses against those who seize the King's castles, who leave the realm and become subject to a foreign prince, or who embarrass foreign affairs, reappear, sometimes with slight additions which make them more stringent. The clause against papal bulls was no less necessary; in December 1530 it had been decided at Rome that briefs should be granted prohibiting the Archbishop of Canterbury from taking cognisance of the divorce, forbidding Henry to have any other wife than Catharine, and Anne, or any other woman, to marry him while the case was pending.[3] The news of this would not arrive in time to influence the draft prepared for the session of January 1530–1, but it further emphasised the need for some provision against such papal attacks. In the same January

[1] *L. & P.* v. 394. *Cf. State Papers*, i. 380, where it appears that the body referred to was the King's Counsel learned in the law. For the share of the judges and law officers in the drafting of legislation, see thesis in the University Library at South Kensington by J. J. McGinley, *The Judiciary in Relation to Legislation under Henry VII and Henry VIII.*

[2] *Cf.* A. F. Pollard, *Henry VIII*, pp. 304–6, and references.

[3] *L. & P.* iv. 6772. The date of this secret Consistory was December 23.

the Pope again forbade Henry to remarry until the decision of the case, and prohibited laity, clergy, universities, parliaments, and courts of law in England from coming to any decision on the divorce.[1] Every fresh step that the King took might be followed by further ecclesiastical thunders. So the new Treason Bill was very similar to the one prepared twelve months earlier, but more stringent. A clause widening the scope of forfeiture for treason was added, no doubt as a further deterrent to attempted rebellion, and the later of the two drafts includes as treason the making of agreements with any foreign prince or consenting to pay him any sums of money. This second draft is also prefaced by a long preamble,[2] setting forth that in the twenty-fifth year of Edward III, Parliament, in passing the Act of Treasons, had by a special clause made provision for the further extension of the Law of Treason when necessary:

'According to which declaration and ordinance so most prudently foreseen and made . . . it is now therefore thought by the noble men of this realm and the Commons in this present Parliament assembled much necessary and convenient to declare by authority of this present Parliament some kinds and offences . . . to be high treason.'

It is interesting to find this clause of the Act of 1352 thus quoted as the authority for a Bill augmenting the Law of Treason, because there has been some controversy as to whether it referred to the legislative or judicial powers of Parliament. Several judicial decisions in Parliament were given under it,[3] and an attempt was made to use it at the

[1] *L. & P.* v. 27. It is noteworthy that the fixing of this document on the church doors of Flemish towns is to be sufficient promulgation, as Henry had refused to receive a former citation.

[2] This preamble is only found in A3, but a reference in A2 shows that it was at least planned when that draft was prepared. It is probably the preamble which misled Dr. Gairdner when he calendared A3 in the wrong place.

[3] *E.g.*, the case of John Imperial in 1380. *Cf.* Coke, 3 *Inst.* p. 8; 1 Hale, *P.C.*, pp. 83, 263. That of Mortimer in 1423 (1 Hale, *P.C.*, p. 268) appears to be the last.

time of Strafford's impeachment.[1] His counsel argued that it was repealed by 1 Henry IV, c. 10, and 1 Mary, c. 1, which enact that no offence shall be treason except those specified by the Act of 1352; and the fact that the impeachment was abandoned seems to lend colour to his point of view. But whether it refers to legislative or judicial functions, the provision gave to Parliament no power which it did not already possess. As to legislation, it could not increase the right of Parliament to pass a Bill either augmenting the Law of Treason generally, or dealing with some particular case. Judicially, Parliament was the highest court in the land. The provision merely states the power of giving a decision which Parliament already had[2]; and if it be taken to refer to the judicial power, it points out to the judges the occasions and the ways in which they are to ask for its exercise. Hence, since it gave no power, none was taken away by its repeal—if 1 Henry IV, c. 10, be considered to repeal it. It is used as the excuse for Henry VIII's projected Treason Act, but in any case the new treasons are to be declared 'by authority of *this present* Parliament.'

Parliament, when it met, reflected the disturbed and restive temper of the great majority of the nation; the royal proceedings were criticised, and Government Bills had a hostile reception. There had in the previous session been loud complaints of the King's financial exactions;[3] now Henry's request for supplies was met only by the grant of a single fifteenth, which he did not consider worth acceptance.[4] Two members moved that he be asked to take back Catharine as his wife, and their words were reported to have been well received by the House.[5] The Bills of Uses and Wills, his dearest projects, were twice rejected,[6] and it required all his and Cromwell's parliamentary skill to

[1] Stephen, *Hist. of Criminal Law*, ii. 252. Holdsworth, *Hist. of English Law*, ii. 372.

[2] Parliament had decided cases before the Act of 1532—*e.g.*, those of Segrave, the Despencers, Roger Mortimer, and Maltravers.

[3] *L. & P.* v. 171.

[4] *Ibid.*, 1046.

[5] *Ibid.*, 989.

[6] *Ibid.*, 805, 989.

secure the passing of the Act of Annates; in the House of Commons recourse was had to the rare expedient of a division,[1] and in both Houses the votes were taken in the King's presence. In such circumstances the failure of a Government measure, intended to create new treasons and guard against plottings abroad and discontent at home, was only to be expected. No Journals of the session have been preserved, but the existence of two drafts and the amount of correction to which they were subjected argues that the Bill was not rejected without due consideration. Between the lines of the preamble there seems to be a suggestion that an easy passage was not expected; it sets out that the most detestable sin of high treason has always been abhorred both by Christians and infidels, and that in the statute of the twenty-fifth year of King Edward III, by which the offence is defined, provision is made for including other offences in the Law of Treason when necessary. Now, therefore, the nobles and commons of the realm think it necessary and convenient to raise various offences, 'which have been newly by experience practised,' to the rank of high treason, even as the Parliament of Edward III 'discreetly assented and enacted' for the safety of the King and his heirs,

'to the intent that the people of this realm may well consider, know, and perceive that the said noblemen and commons in this present Parliament assembled be as fervently disposed and as greatly affectionate as ever their said predecessors were or their successors have been or shall be to ordain and provide for the surety of their sovereign lord.'

It reads like an appeal to the loyalty of the House of Commons and the class they represented: a defiant manifesto to enemies abroad and malcontents at home that the majority of the nation were still the King's firm supporters. But if such were its objects, it failed. Parliament refused Henry the vote of confidence he desired. Such was the fate of his (or Cromwell's) first Treason Bill.

[1] *L. & P.*, v. 898.

The successful attempt to obtain the Treason Act was not made until the second session of 1534. Meanwhile, matters had reached a crisis. In January 1532–3, despite papal threats in the previous November,[1] Henry and Anne were secretly married, and in the session of Parliament which opened in the following month, Henry must sever the connexion with Rome in order that he might obtain a legal form of divorce in England. The thunderbolt of excommunication might be launched at any moment. London was disquieted by rumours that the new Archbishop-designate was a Lutheran, and that the King was consulting with Melancthon. The Commons had been troublesome in the previous year, and were sure to be apprehensive of injury to the Flemish trade. So in order to smooth the passage of the essential measure, no other demands were made upon Parliament; no grants were required, and no extensions of the royal prerogative proposed; the Treason Bills of the two previous sessions were therefore not revived.

The Act of Appeals was followed by the opening of Cranmer's court at Dunstable, the sentence of divorce, Anne's coronation, and, in September 1533, the birth of Elizabeth. In the same month bulls of excommunication were issued against Henry and Anne,[2] and the King's reply was a vigorous campaign against papal authority. Preaching was forbidden, the Act of Appeals was placarded on the church doors, ambassadors were sent to make leagues with Poland, Hungary, the Hanse towns and the princes of Germany, fortifications were strengthened and munitions of war prepared. Indeed, Henry's position was dangerous, and Chapuys' despatches are full of assurances that an Imperial invasion would be widely supported in England. Whether or not there was as much disaffection as he believed, there was much murmuring, and many indications

[1] *L. & P.* v. 1545, where are also noted briefs of March 7, 1529–30, and January 5, 1530–1.

[2] See A. F. Pollard, *Henry VIII*, p. 302 note, on the various bulls of excommunication.

of the feeling which the divorce had roused against the King. Probably Henry alone knew the extent of his safety. A Catholic Europe which could not combine against the Turk would never do so against one who, whatever else he might be, was still rigidly orthodox in faith. The Flemish wool trade was more important to Charles V's subjects than to the English, and so long as it was safe Henry need not fear a serious rebellion. The commercial classes were dominant; they wanted peace and prosperity, and the only alternative to Henry VIII was anarchy. The repudiation of papal authority was popular, the Church was not loved as an institution, and so long as the divorce did not bring consequences which materially affected Henry's subjects, they would not stir against him. Henry understood all this, and acted accordingly. Further, in the autumn, the exposure of the Nun of Kent and her accomplices did much to cow disaffection.

Parliament reassembled on January 15, 1534, to complete the separation from Rome. The worst of the crisis was now over. It was fairly evident that the Emperor neither could nor would attack England, and now that the divorce and re-marriage were accomplished facts it was probably felt that grumbling was useless, and the objections would assuredly go no farther than that.[1] The discredited Nun and her accomplices were attainted, and the apprehension thus created helped the passage of the Act declaring Henry's first marriage invalid—a proposition from which the majority of the nation would certainly have dissented. But Parliament was prepared to recognise accomplished facts, and it passed the Act for the King's marriage and succession apparently without much unwillingness.

This Act is another step in the progress of the Law of Treason. It provided that it shall be treason to do, or procure to be done, anything to the peril of the King's

[1] I have neglected the alleged attempts to render this Parliament subservient by packing it. *Cf.* A. F. Pollard, *Henry VIII*, p. 317, and thesis by W. S. Dann, in the University Library at South Keningston

person or whereby he may be disturbed or interrupted of the Crown, or to the prejudice, slander, or derogation of his marriage or the peril, slander, or disherison of his heirs, as limited by the Act, by which they might be destroyed, disturbed, or interrupted in body or title of inheritance. These offences were to be high treason if committed by deed or writing, and misprision of treason if by words only. To refuse to swear to the contents of the Act was also to amount to no more than misprision.

No drafts of this Act have been found, so that it is impossible to tell what the original proposal of the Government was; probably, however, it was more severe than the Act, and was modified by Parliament in the direction of greater leniency. Cromwell reported to the King that Parliament was content that deeds and writing should be treason and words misprision, with a declaration of what the misprisors shall do.[1] These, and the directions as to what should be omitted from the Act, were carried out to the letter—a striking instance of the prevailing of the will of Parliament and of its ability to alter a Government Bill. Obviously, then, it approved of these extensions of the Law of Treason.

By the autumn of 1534 the crisis, which had reached its height in 1533, was practically over, and Henry was safe. He had little difficulty in securing a general and formal repudiation of papal authority and acknowledgment of his second marriage. Everywhere the oath to the contents of the Act of Succession was readily taken,[2] and

[1] *L. & P.* vii. 51. Remembrances in Cromwell's hand. Professor Pollard (*Henry VIII*, p. 263 note) has taken this remembrance as referring to 26 Hen. VIII, c. 13, basing his theory on the fact that 'there is in the Record Office a draft . . . differing considerably from the Act as passed.' This is incorrect, as the examination of this draft (A3) has shown. All the conditions mentioned in *L. & P.* vii. 51 are fulfilled by 25 Hen. VIII, c. 22; none of them by 26 Hen. VIII, c. 13. The mention of the King of Scots, and of the disobedience of an heir to the Act, show that the remembrance can only refer to some Act regulating the succession, such as 25 Hen. VIII, c. 22, or 28 Hen. VIII, c. 7, in which the latter provision appears.

[2] *L. & P.* vii. *passim—e.g.*, 610, App. 23, 24, 26, 27, 29.

the declarations required of them were made by the Convocations, the two Universities, and the capitular bodies. On November 3, 1534, Parliament reassembled, and the first measures that it passed were a short declaratory Act for the royal supremacy, and another laying down in precise terms the oath to the succession. Evidently it had decided to acquiesce whole-heartedly, not only in the King's popular anti-papal policy, but also in his unpopular but accomplished marriage. It was plain that Charles V neither could nor would interfere.[1] Hence it is not surprising to find that in this session it at last strengthened the hands of the Government by a new Act of Treasons, dealing with three classes of offences :

1. To wish or attempt any bodily harm to the King, the Queen, or their heirs apparent, or to deprive them of their titles, and to express it by words, writing, or deed.

2. By writing or words to call the King a heretic, schismatic, tyrant, infidel, or usurper of the Crown.

3. To detain any royal castles, ships, ordnance, or munitions of war, and to refuse to give them up after proclamation.

4. All traitors are deprived of the privilege of sanctuary.

5. These, or any other treasons, if committed out of the realm, shall be enquired of and presented by the oaths of twelve men upon good evidence, in such shire and before such persons as the King shall appoint by commission under the Great Seal. The indictment shall be certified into the King's Bench, and process there made as if the treason had been committed in the realm. Process of outlawry against offenders living out of the King's dominions shall be as good and effectual as if they were living in the realm.

6. A convicted traitor shall forfeit all his lands, tenements, and hereditaments of any estate of inheritance, in use or possession ; the rights of all persons are saved except the offenders, their heirs and successors, and any persons claiming to their use.

[1] *L. & P.*, vii. 229. *Cf.* Pollard, *Henry VIII*, pp. 310–1.

The changes which this Act made in the law were considerable, but they were neither unreasonable nor unprecedented, and certainly do not deserve the violent condemnation which has usually been their lot. To compass the bodily harm of the King was treason under the Act of 1352,[1] for a conspirator who plotted to harm him would be unlikely to leave him alive to take vengeance.[2] The first appearance of this provision in an Act is in the Act of Succession, 25 Henry VIII, c. 22. The inclusion of the Queen and the heir apparent was natural in the circumstances of the time. The clause as to depriving the King of any of his titles was levelled at those who denied Henry's ecclesiastical supremacy, and its insertion in the Act was due to the events of the years 1531 to 1534. Henry's title of supreme head on earth of the Church of England, first granted to him by Convocation in January 1530–1, had just been confirmed by Parliament in the Act of Supremacy, but that Act contains no penal clauses. This clause is the first enactment under which those who denied Henry's supremacy could be put to death, and it was under it—not under the Acts of Succession and Supremacy, as is generally believed—that the Catholic martyrs suffered. The penalties imposed by the Act of Succession on those who refused to swear to its contents were those of misprision only.[3]

[1] 1 Hale, *P.C.* p. 275. Stephen, *Hist. of Criminal Law*, ii. 256.

[2] In Essex's case, in 1600, the judges gave the opinion that 'in every rebellion the law intendeth as a consequent the compassing the death and deprivation of the king,' for the reason given above (*State Trials*, i. 1353; Foster, *Discourse*, p. 195).

[3] It was therefore for misprision of treason that Fisher and More were attainted by Acts of this Parliament, 26 Hen. VIII, cc. 22 & 23. Their refusal of the oath was due to the implied denial in the Act of the Papal Supremacy; hence, since they upheld this, they denied Henry's supremacy. They could not, however, be condemned to death as traitors until after the passing of 26 Hen. VIII, c. 13. *Cf.* Pollard, *Henry VIII*, p. 331 note. That they and the Carthusians suffered under this Act is clear from the records of the trials in the *Baga de Secretis*, Deputy Keeper's 3rd Report, App. ii. pp. 237, 239, 240. On p. 238 (M. 8) it is made plain that this clause in 26 Hen. VIII, c. 13, was intended to enforce the Act of Supremacy. *Cf.* the other trials.

To make it treason to deprive the Queen of her title would have been meaningless, and indeed in direct opposition to what Henry wished his subjects to believe, until Cranmer's sentence of divorce between Henry and Catharine, and Anne's coronation. That both this and the guarding of the title of the heirs of Henry and Anne were necessary there is no question. In July 1533, Chapuys had reported[1] that the people, though forbidden on pain of death to call Catharine queen, shouted it aloud, and it is said that none cried 'God save the Queen!' as Anne's coronation procession passed through London.[2] Certainly the majority of the nation regarded Mary as the true princess and deeply resented her supersession by Elizabeth. That the opprobrious epithets to be treason in future were in common use is evident from the many fragments of seditious talk preserved among the 'Letters and Papers,' and they were dangerous to Henry in the mouths of his subjects, for the people who spoke them were those most likely to plot or attempt rebellion. Those who could call Henry a heretic, schismatic, or infidel, evidently disagreed with his ecclesiastical policy; and to call him a usurper argued a dangerous degree of adherence to those families of White Rose descent which it was always the object of Henry VII and Henry VIII if possible to destroy. The clause as to detaining royal castles or munitions of war was useful as a check on attempted rebellion, and it made the law more stringent than it had previously been by making a bare detainer treason; previously, forcible resistance had been necessary to constitute the offence.[3]

The Act also introduced what legal and constitutional historians regard as a violent breach of the constitution —an invasion of the most elementary and fundamental liberties of the subject—treason by words. Unfortunately

[1] *L. & P.* vi. 918. *Cf. Camden Miscellany*, xii. 8. 24 Hen. VIII, two women were cruelly punished for saying that Catharine, not Anne, was the true Queen of England.

[2] *L. & P.* vi. 585.

[3] Foster, *Discourse*, p. 219.

for those who take this orthodox view, a study of the working of the Treason Law in the fifteenth century seems to place it beyond doubt that treason by words was then a recognised principle of the law of the land. The Act of 1352, which cuts down and defines treason, insists on the necessity for an overt act, from which it may be concluded that proof of such an overt act had not previously been essential to secure conviction. An Act of 1397,[1] passed when storm-clouds were gathering thickly over Richard II's head, makes it treason to compass the death or deposition of the King without mentioning the necessity for an overt act; evidently the intention was to enable the King to deal with treasonable words, which, at such a time, were a danger-signal. The Act was swept away as too vague and elastic by the first Parliament of Henry IV;[2] nevertheless, in the third year of his reign, we find men being executed as traitors for saying that King Richard was alive and would come to regain his realm,[3] despite the fact that the Act of 1352 had been reinstated as the sole standard of treason. No protest appears to have been made against these proceedings; and during the fifteenth century a long succession of cases[4] testifies to the fact that words alone

[1] 21 Rich. II. c. 3.

[2] 1 Hen. IV, c. 10, *Stats. of the Realm*, ii. 114. The preamble says that on account of Richard II's Act of Treasons 'there was no man who did know how he ought to behave himself, to do, speak, or say, for doubt of such pains.' Therefore 'in no time to come [shall] any treason be judged otherwise than it was ordained by statute in the time of . . . King Edward III.'

[3] Case of John Sperhauke, *Coram Rege*, 3 Hen. IV, *Pasch. Rex.*, rot. 12. Case of Friar Henry Forster, 3 Hen. IV, *Trin. Rex.*, rot. 3. Case of William Balsshalf, appealed by John Bernard, *ibid.*, rot. 4. Case of Nicholus Louth, chaplain, *ibid.*, back of rot. 4. Case of Friar Walter Walton, *ibid.*, back of rot. 5. In all these cases the prisoner was condemned and executed as a traitor. The first, fourth, and fifth are referred to in a note on p. 115 of vol. i. of the 1778 edition of Hale's *Pleas of the Crown*. The cases of Sperhauke and Walton are printed in the *Engl. Hist. Review*, Oct. 1917.

[4] They are collected in Croke's *Reports* for the reign of Charles I, pp. 117–126, in Pyne's case, and occur under Henry VI, Edward IV, Richard III, and Henry VII. See also Flenley, *Town Chronicles*, pp. 128 129.

could and did constitute treason, and that to punish them as such was strictly conformable with law and the constitution. The New Monarchy brought new constitutional theories, and the 'liberty of the subject,' as it was understood at the time of the Great Rebellion, began to develop. Freedom of speech would before long be an article in the Englishman's political creed.[1] In 1512 Strode's case established the right to free speech in Parliament, and in 1515 Convocation petitioned for the same liberty of speech as was enjoyed in Parliament, where members might even attack the law of the land without being called in question.[2] There are many instances of the exercise and allowance of this parliamentary right. In 1529 a member named Petit opposed the Bill wiping out the King's debts; the only result was that Henry used to inquire jokingly 'if Petit were on his side.'[3] In 1531 the House of Commons complained loudly of the King's exactions, reminded him that his strength lay in the affections of his people, and quoted many instances 'of the inconveniences which had happened to princes through the ill treatment of their subjects.'[4] At the same time the divorce was being attacked in the House of Lords.[5] In 1532 Henry asked for money in order to strengthen the Scottish border, whereupon two members said that fortifications were unnecessary, since the Scots could do no harm without foreign aid; the best fortification was to maintain justice at home and friendship with the Emperor abroad, and to the latter end Henry ought to take back his wife and treat her well.[6]

[1] Perhaps the first trace of this may be found in the story that in the reign of Edward IV, Chief Justice Markham left the Bench rather than agree to the judgment in Sir Thomas Burdett's case. *Cf.* 1 Hale, *P.C.* p. 115. This case was not, however, as most of those who report it believed, one of treason by words only. In 1537, when the leaders of the Pilgrimage of Grace were examined, they were asked against what particular Acts of Parliament the people grudged. *L. & P.* xii. 900 (19). Aske answered that, among others, 'they grudged at the Act that words should be treason' (*Ibid.*, 901 (p. 404)).

[2] *L. & P.* ii. 1314.

[3] Quoted by Professor Pollard, *Henry VIII*, p. 260. He discusses the subject fully, pp. 259–60 and 288–9.

[4] *L. & P.* v. 171.

[5] *Ibid.*

[6] *Ibid.*, 989.

Nothing could have been more displeasing to the King; but all that he did was to argue the point of his divorce with a deputation from the Commons.[1] In 1541 the Speaker, for the first time, included freedom of speech among the ancient and undoubted privileges which the Commons claimed of the King,[2] and in 1547 Gardiner refers to it in a manner which shows that it was customary and undisputed.[3] It is mentioned in the same way in a book written by Edward VI's Clerk of the Council.[4] Is it unreasonable to suppose that a principle which had firmly established itself in Parliament was also growing up out of Parliament? It was only to be expected that a right which the subject possessed in one place he would soon also claim in another.

In 1533–4 the project for the trial of the Nun of Kent seems to have broken down because her offence had been committed by words only, and she had instead to be disposed of by an Act of Attainder.[5] In the autumn of 1534, treason by words was for the first time specifically included in an Act of Parliament—a fact which seems to suggest that the Government had their failure of a few months before in mind. It continued to be included in a long succession of Tudor acts.[6] The old constitutional principle, that the Government may do everything not definitely forbidden

[1] *L. & P.*, v. 989.

[2] Maitland, *Constitutional History*, p. 242.

[3] Quoted by Prof. Pollard, p. 259.

[4] *The Pilgrim* (by W. Thomas, ed. J. A. Froude), p. 30.

[5] This is one of the very few cases under Henry VIII in which an Act of Attainder was not preceded by a regular trial and condemnation. The only other two appear to be those of the Countess of Salisbury and Cromwell. There are no records of the trial of the Nun in the *Baga de Secretis*, Deputy Keeper's 3rd Report, App. ii. pp. 210 *et seq.* *Cf. L. & P.* vi. 1382, 1445; and Fisher, *Polit. Hist.*, v. 334. Coke, 3 *Inst.* p. 14, marginal note, says that she and her accomplices could not be attainted by the Common Law.

[6] 28 Hen. VIII, c. 7.
35 Hen. VIII, c. 1.
1 Edw. VI, c. 12.
5 & 6 Edw. VI, c. 11.
1 & 2 P. & M. cc. 9 & 10.
1 Eliz. cc. 1 & 5.
5 Eliz. c. 1.
13 Eliz. cc. 1 & 2.
14 Eliz. c. 1.
23 Eliz. c. 1.

They were not, however, always treason at the first offence, and had usually to be prosecuted within a certain time.

to it by law, was giving way in the sixteenth century to the new one that the Government has only the powers allowed to it by law, and that it is the subject who may do everything which definite law does not forbid. When Coke wrote, all the Tudor Acts making words treason had expired or been repealed, and the new constitutional theories as to the liberty of the subject and his right to freedom of speech were firmly established. Hence it was natural that he and his contemporaries should regard treason by words as alien to the law and the constitution. Like all lawyers, they could only read the past by the light of the present; what the constitution was in their own day, such it must always have been. Hence, since words did not then constitute treason, they could not have done so in the past; cases which seemed to point in the opposite direction were the exceptions which proved the rule, and were due to the tyranny of particular sovereigns. They had not yet arrived at the modern view which can recognise constitutional development and change. The only way they knew of getting rid of out-worn principles and institutions was by declaring that they never had been legal or constitutional; everything must show statutory authority for its existence.[1] Under Henry VIII it had become necessary to strengthen by Act of Parliament a principle which could no longer maintain itself by custom and practice, and this policy of making words treason by Act of Parliament had been continued throughout the Tudor period.

In 1628, in Pyne's case,[2] the judges decided that words, save by some particular statute, did not amount to treason, since there was then no treason save by the Act of 1352. Legally they were probably right in holding that in 1628 words were not treason. Constitutional development swept away the Common Law practice of the fifteenth century, and these Acts became the sole basis of treason by words. Hence

[1] *Cf.* the excuses for the abolition of the Court of Star Chamber in 1641, and of papal jurisdiction in the sixteenth century.

[2] *Cro. Car.* p. 125. *State Trials*, iii. 359.

the offence disappeared with them, and the judges were right in deciding, in face of a long list of fifteenth-century precedents, that in 1628 words were not treason save by a particular statute. They did not say this had never been the case; but if they understood how the change from fifteenth- to seventeenth-century practice had come about, they did not explain it, and it was soon forgotten. It became a maxim of historians and legal writers that treason by words was an invention of Tudor despotism; and this view, coloured—like so much of constitutional history—by the narrow unhistorical ideas of the seventeenth-century lawyers, has prevailed down to the present day.[1]

Similarly it was no new principle that writings might constitute treason. Cases in the fifteenth century prove that they were held to do so.[2] The Act of Succession, 25 Henry VIII, c. 22, is the first which specifically includes them, and they were included in the new Treason Act a few months later. They may, however, be held to come within the provisions of the Act of 1352, for writing argues a deliberate intention—a principle which was still held in the seventeenth century after the disappearance of all the Tudor Acts on the subject.[3] Here, then, the Act simply reinforces what was already the practice of the courts.

[1] With Tudor officials, treason by words was considered useful and necessary. Sir John Mason, who is typical of his class, wrote to Edward VI's council: 'The worst act that ever was done in our time was the general abolishing of the Act of Words by the Duke of Somerset' (Quoted, Pollard, *England under Protector Somerset*, p. 58). Yet this very Repealing Act (1 Edw. VI, c. 12) reimposed the penalties of treason for a third offence by words; evidently even Somerset would not include it in his general repeal of Henry VIII's repressive legislation.

[2] Some of the precedents cited in Pyne's case (*Cro. Car.*, pp. 117–125) are cases of treason by writings: *e.g.*, cases of William Ashton, 31 Hen. VI; William Belmyn, 9 Edw. IV; Thomas Bagnall, 9 Hen. VII. The well-known case of Haxey in 1397 (*cf.* Maitland, *Const. Hist.* p. 241) belongs to this category of treason.

[3] In Williams's case in 1619 (*State Trials*, ii. 1088), the judges decided *scribere est agere*. *Cf.* the cases of Peacham and Algernon Sidney. The writing of Cardinal Pole's book on the papal supremacy was a sufficient overt act. See Coke, 3 *Inst.* p. 14, and *Treatise on the Law and Proceedings in Case of High Treason*, 1793, p. 31.

The provision that traitors shall lose all privilege of sanctuary forms part of a long campaign against what had become a serious abuse. The privilege of sanctuary was very ancient,[1] and during the Middle Ages had been useful and necessary as a palliative to the harshness of the law. But by the fifteenth century the extravagant claims of the Church had raised it into an instrument for the defeat of justice,[2] and, as the rule of law gradually became more defined and superseded the rule of force, sanctuary lost its *raison d'être*. During the fifteenth century the judges began to reduce it to more reasonable proportions and to define by whom and under what conditions it might be claimed.[3] Its gradual destruction was due to that rise of anti-clerical feeling which culminated in the Reformation, and also to the change from medieval to modern England. The former cause is already apparent in the significant advice given to the Abbot of Westminster in the first Parliament of Henry VII. Some case had evidently arisen, and the Abbot alleged the privileges of Westminster; he was told by the Lords Spiritual and the judges that he had acted unwisely in making his franchises the subject of argument, and that the best way to preserve them was to see that they were well and duly kept, and that wrong-doers were not by them allowed to escape from justice.[4]

[1] *Cf.* Stanford, *Les Plees del Coron*, bk. ii. chap. 38. Reeves, *Hist. of Eng. Law*, ed. Finlason, i. 32. There are many references to sanctuary in Thorp, *Ancient Laws and Institutes of England.*

[2] Originally, it seems only to have protected an offender for seven or nine days (Thorp, *op. cit.*, pp. 29 and 141), on condition that he made amends for his crime to God and man (*ibid.*, pp. 46, 142, 145). Reeves, *loc. cit.*, has apparently not noticed the time limit.

[3] Keilway's *Reports*, f. 189*b*, case in 1429. Case in 1462, *Y.B.* 2 Edw. IV, Mich. ff. 22 23. Cases under Henry VII, *Y.B.* (Tottel), Hil., 1 Hen. VII, f. 6, 9 Hen. VII, f. 20. Cases in the early years of Henry VIII, Keilway's *Reports*, ff. 188–189.

[4] *Y.B.* Hil., 1 Hen. VII, f. 10*b*. From what follows it seems that the case was one of a fraudulent debtor, who, under the Acts of 50 Edw. III, c. 6, and 5 Rich. II, stat. 2, c. 3, had no right to sanctuary for his goods.

The first case affecting sanctuary for treason[1] is that of Humphrey Stafford in 1486, and by it the conditions necessary if the privilege was to cover a traitor were clearly defined.[2] In 1487, 1493,[3] and 1504,[4] papal bulls, professing to be issued at the King's request, deprived felons in sanctuary of the privilege if they committed a second offence, and ordered that convicted or suspected traitors taking sanctuary should be guarded by royal officers to prevent their escape in order to offend again. These bulls indicate what was the existing practice in such cases.[5] Their object was not to alter the law or to limit the privilege of sanctuary. It had been clearly laid down that the pope had no power to grant such a privilege, which was a matter of royal gift

[1] Brooke, *Abridgement*, Sanctuary 2, and Treason 6, quotes a case (*Y.B.* 21 Edw. III, 17 *b*) of a man who was drawn and hanged for matricide, 'et sic videtur que cest treason, et que pur treason il navera priviledge desglise.' These deductions are Brooke's own; there is nothing in the *Year Book* to warrant them. All that is there laid down is that a man may not fall back upon a plea of sanctuary after he has been non-suited in an appeal. The offence may perhaps have been petty treason. (For the later theory on this point see Coke, 3 *Inst.* p. 20.) Brooke seems to have classed it as treason because it received the punishment which in his own day was inseparably associated with the offence; and the remark that there is no sanctuary for treason was probably influenced by contemporary practice, based on this Act of 26 Hen. VIII, c. 13. Hale's annotator (1778, 1 *P.C.* p. 81) calls this Thorpe's case. Thorpe was the name of the judge, not of the prisoner.

[2] It was decided that sanctuary for treason cannot be claimed by prescription, nor deduced from a charter in general words, but must be expressly granted by the King. Also there must have been allowance of the privilege before justices in Eyre, within the time of legal memory (*Y.B.*, 1 Hen. VII, ff. 22*b*–26*b*).

[3] Rymer, xii. p. 541. It is a confirmation of the bull of 1487.

[4] *Ibid.*, xiii. p. 104. Professor Pollard, *Documents illustrative of the Reign of Henry VII*, iii. 184, says that this bull excepts traitors from the privilege of sanctuary. It seems to be merely a confirmation of the previous ones by the new pope.

[5] For the guarding of fugitives while in sanctuary, see *Ancient Indictments*, Bundle 178, No. 10, and Bundle 186, No. 44, 3 Hen. IV. Mazzinghi, *Sanctuaries*, p. 37, and Réville, 'L'Abjuratio Regni,' *Révue Hist.*, September 1892, pp. 25, 28, cite cases. See also Prof. Pollard's *Documents Illustrative of the Reign of Henry VII*, i. 176–7.

alone ;[1] hence neither could the pope restrict or annul it.[2] Clearly, the object of the bulls was to protect the King's officers in the execution of their duty against excommunication by Churchmen over-zealous for what they considered their rights.

The attack on the privilege went on steadily under Henry VIII. A temporary Act of 1512[3] reduced it, but, owing to bitter clerical opposition, it was allowed to lapse.[4] In 1516 a case revived the controversy, and its result was a great conference in 1519, which brought out clearly the extent of the abuse and the powerlessness of the Church to restrain it.[5] The King, who was present, took the side of the lawyers, and announced his intention to reform encroachments and abuses and make the privilege conform to the intentions of its first grantors for the good of the realm. The assault, however, was delayed another ten years, for, save for the short and stormy session of 1523, Parliament did not meet between this eventful conference

[1] *Y.B.*, 1 Hen. VII, f. 25*b*. Keilway, *Reports*, ff. 189*b*, 190. All that the pope could grant was the name 'sanctuary.' The privilege, since it operated against the King, could only originate in a royal grant.

[2] The fact that the bulls did not alter the law is evident from the fact that in the controversies over sanctuary under Henry VIII they are never mentioned, and the abuses at which they aimed were complained of down to 1534 (*Lords' Journals*, i. 59*b*). Further, neither they nor the judgment in Stafford's case destroyed the privilege of sanctuary for treason. (Reeves, *H.E.L.*, ed. Finlason, iii. 190 note, on Stafford's case.) That sanctuary could be claimed for treason on the eve of the passing of 26 Hen. VIII, c. 13, is evident from the final saving clause of 22 Hen. VIII, c. 14, which reserves to persons guilty of offences of a higher nature in law than those mentioned in the Act all rights of sanctuary which they had before the making of the Act. The offences mentioned are petty treason, murder, and felony, so 'offences of higher nature in the law' can only refer to high treason.

[3] 4 Hen. VIII, c. 2.

[4] Keilway, *Reports*, ff. 180*b*–185*b*. It was revived by 22 Hen. VIII, c. 14.

[5] Keilway, *Reports*, ff. 190*b*–192*b*. Wolsey and the Abbot of Westminster had drawn up an oath, to be taken by every one who fled into sanctuary, that he would not go out and commit any treason or felony *sub spe redeundi*. This had proved useless, since the only penalties for those who broke it were such as the ecclesiastical courts could inflict for perjury.

and 1529. Then at last anti-clericalism had its way. Acts reducing the privilege of sanctuary were passed in 1529,[1] 1530–1,[2] and 1531–2.[3] In the first session of 1534 the Lords complained of the abuse of sanctuary, and ordered the judges to prepare a Bill on the subject,[4] and those committing the treasons or misprisions enacted by the Act of Succession were deprived of the privilege. It was but a short step for the next session to extend this deprivation to all traitors.[5] The persistent attacks on sanctuary throughout the reign are clear proof that its reduction was really desired by Parliament and was not simply imposed by the Crown. Here is no forcing of royal measures on a reluctant House.

Another clause provides for the trial of treason committed out of the realm.[6] It is a mark of national development and expansion. Englishmen were less than formerly confined to England, and it was comparatively easy for them to go abroad and commit treason at the papal and Imperial courts, or to speak hard words of the King and his doings as they bargained and sold in the marts of Flanders. Further, the provision is part of a well-defined

[1] 21 Hen. VIII, c. 2. [2] 22 Hen. VIII, c. 14.

[3] 23 Hen. VIII, c. 11.

[4] No Bill was prepared, doubtless because the case could be fully met by reviving 22 Hen. VIII, c. 14—a course which was taken by 28 Hen. VIII, c. 1.

[5] *L. & P.* vii. 1388, is apparently a clerical attempt to arrive at a compromise.

[6] This applies to all treasons, not only to those created by the Act. The standard of later law on the subject, however, was 35 Hen. VIII, c. 2; and Coke (3 *Inst.* p. 11) and Hale (1 *P.C.* p. 169) appear to forget that it was anticipated by 26 Hen. VIII, c. 13. (*Cf. State Trials*, i. 440, Hargrave's note.) It was not repealed by 1 & 2 P. & M. c. 10, which reduces all treason trials to the course of Common Law, because treason committed out of the realm was not triable by Common Law. *Cf.* Dyer's *Reports*, f. 131*b*–132, and Story's case, 298*b* and 300*b*. Coke (3 *Inst.* p. 11) says that treason committed out of the realm *can* be tried in the realm, and cites a case, *Coram Rege*, 2 Hen. IV, Pasch. Rex rot. 18 (not 8, as he gives it). This case, however, proves exactly the opposite—*i.e.* that treason committed out of the realm cannot be tried in the realm. *Cf.* supra, p. 94, n. 2.

movement in the direction of straightening out the crooked line of the law and filling its gaps. Doubtless the scarcity of cases and the small chance of capturing such a traitor [1] accounts for the earlier lack of Common Law on this subject. Now the meshes of the law were to be made fine enough to catch all traitors. Treason in Wales, and places where the King's writ did not run,[2] treason in Ireland,[3] and at sea,[4] were all provided for; even traitors who became lunatic were not allowed to escape.[5]

Finally, the Act amends the law of forfeiture in the direction of greater stringency. The statute of Westminster II had made entailed estates inalienable; [6] hence, under the notion that a man ought not to forfeit what he is unable to dispose of in other ways,[7] they were, in cases of treason or felony, forfeited only during the offender's life, and were then restored to his family. Such a statute was naturally popular with the land-holding classes,[8] who took care that it was not repealed, though estates-tail soon came to be looked on as a grievance and the judges invented a method of cutting of the entail by a common recovery. Hence the excuse for their privilege from forfeiture was destroyed; but the privilege itself remained down to 1534, save for two years at the end of the reign of Richard II. The Act of 1397 definitely declared estates-tail to be forfeited by attainder of treason, but it disappeared in 1399, and no further attempts were made to alter the law in this direction until that New Monarchy of which Richard II was

[1] This was still a difficult task, as Henry VIII found in the case of Brancetour. *L. & P.* xv. Introd. pp. v–viii. For the international law on the subject, see Coke, 3 *Inst.* p. 180.

[2] 32 Hen. VIII, c. 4.

[3] 35 Hen. VIII, c. 2, as resolved in O'Rurke's case, 33 Eliz., Coke's *Reports*, pt. vii. f. 23. See *State Trials*, i. 439, trial of Lord Leonard Grey under 26 Hen. VIII, c. 13.

[4] 28 Hen. VIII, c. 15. [5] 33 Hen. VIII, c. 20.

[6] Coke, 2 *Inst.* p. 335. 1 Hale, *P.C.* p. 240.

[7] *Some Considerations on the Law of Forfeiture for High Treason*, by the Hon. C. Yorke, 1745, p. 48.

[8] Coke on Littleton, f. 392*b*. Stephen, *Commentaries*, ed. 1914, i. 155.

of an ill-starred forerunner. In the spring of 1534 the Act Succession, and in the autumn the Act of Treasons, declare that all lands of any estate of inheritance shall be forfeited, thus covertly including estates-tail;[1] and in doing so they seem rather to legalise and extend existing practice than to make an innovation. Acts of Attainder had usually contained a special clause of forfeiture including estates-tail; now the system in use for attainders by Parliament was to be extended also to attainders by Common Law.[2]

Another gap in the Law of Forfeiture was filled by the inclusion of lands held to the use of the person attainted.[3] These, like estates-tail, had been included in Richard II's Act, and afterwards received special mention in Acts of Attainder. They were not forfeited by Common Law,[4] which refused to recognise them; indeed, this point was one of the reasons alleged for the making of the Act of 1536, 27 Henry VIII, c. 10, for transferring uses into possession.[5] The wording of the clause—'in use or possession'—is less explicit than are some of the earlier drafts,[6] but persons claiming lands to the use of the traitor are expressly excluded from the benefits of the saving clause.[7]

A third point is the forfeiture of lands belonging to corporations. At Common Law the possessions of a corporation sole, as for example a bishop, were forfeited only during the life of the attainted incumbent, and were restored to his

[1] *Cf.* the projected attack on entails in 1539, *L. & P.* XIV. i. 1030. Fisher, *Polit. Hist.* v. 291, says the Reformation Parliament discussed the abolition of entails.

[2] This was to apply to attainder by presentment, confession, verdict, or outlawry. 33 Hen. VIII, c. 20, applied these forfeitures to all attainders, so that there was henceforth no need for a forfeiture clause in an Act of Attainder.

[3] Also included in 25 Hen. VIII, c. 22, for the treasons it created.

[4] See 11 Hen. VII, cc. 63 and 64.

[5] See the preamble of the Act, *Statutes of the Realm*, iii. 539. 'Persons attainted' would there refer to attainders of felony, attainders of treason having been already provided for by 26 Hen. VIII, c. 13.

[6] A2 and A3.

[7] 33 Hen. VIII, c. 20, declares the forfeiture of uses more plainly.

successors, since the profits only, and not the inheritance, were his.[1] Similarly the lands belonging to a monastery were not permanently forfeited by the attainder of the abbot, the head of the corporation. Now a clause added by Cromwell to the last draft of the Bill brought them within the law. It is a piece of historical irony that this new destruction should appear in the guise of a saving clause: 'Saving to every person and persons, their heirs and successors, other than the offenders in any treasons, their heirs and successors . . . all such rights . . . which they shall have. . . .'[2] The exclusion from the saving of the traitor's successors barred the successor of an attainted bishop or abbot.[3] Truly, a wolf in sheep's clothing. That it was done deliberately is proved by a note amongst Cromwell's papers;[4] 'Any bishop, dean, abbot, &c. convicted of high treason to forfeit the lands held in right of their corporations.' As to the deep-laid plans hinted at by this new departure, Hale[5] says:

'It is apparent that Henry VIII had not only in prospect the dissolution of monasteries, but had a resolution to curb the clergy, who were too obsequious to the Pope and his power. And therefore there were several attainders of abbots of high treason, whereupon the king seized their possessions, as dissolved thereby, as appears by the statutes of 27 Henry VIII, c. 28, and 31 Henry VIII, c. 13, touching monasteries.'

By the latter Act it appears plainly that the possessions of monasteries whose abbots were attainted of treason came thereby to the Crown, though special forfeiture clauses were inserted to make assurance doubly sure.

This forfeiture disappeared as quietly and unostentatiously as it appeared. The Act of 5 and 6 Edward VI,

[1] 1 Hale, *P.C.*, p. 252.

[2] The usual saving clause excepts only the traitor, his heirs, and those claiming to his or their use.

[3] Continued by 28 Hen. VIII, c. 7, 33 Hen. VIII, c. 20, and 35 Hen VIII, c. 3.

[4] *L. & P.* vi. 1381, among 'acts necessary to be made in this Parliament,' *i.e.* a projected session at the end of 1533.

[5] 1 *P.C.* p. 252.

c. 11, saves the rights of all persons other than attainted traitors and their heirs, 'which restores and preserves the right of successors as it was at the Common Law.'[1] Still, it was doubtless owing to the remembrance of this forfeiture that a provision was inserted in Mary's Act for the attainder of Cranmer,[2] that this should not prejudice his successors in regard to the possessions of the see.

Was the full force of this saving clause grasped by Parliament? Perhaps not. But in view of the prevalent anti-clericalism and the strong feeling in favour of disendowment, it would in any case hardly have been unpopular. Sweeping Acts of dissolution and disendowment were passed a few years later, and the classes from which the members of both Houses were drawn were the classes which ultimately benefited most by them. In the storm of Mary's reign the determination of Parliament not to restore the abbey lands was the mainstay of the Henrician Reformation.

The first Act of the session which produced this Act of Treasons had declared the King supreme head of the Church. On January 15, 1534–5, the title was by Letters Patent incorporated in the royal style.[3] On February 1, the Act making it treason by word, writing, or deed to attempt to deprive the King of it came into force. It was on the back of a copy of the Act[4] that notes were made in April of the denial of the King's supremacy by Houghton, Prior of the London Charterhouse, and others, and it was for this offence, and under this Act, that on April 29 they were tried and condemned as traitors. Fisher followed them to the scaffold in June; More in July. The long succession of martyrdoms for Catholicism had begun.

Where is the responsibility for this Act to rest? The Crown was still the dominant factor in the composite entity

[1] 1 Hale, *P.C.* p. 253. In the Bishop of Durham's case in 12 Eliz. Dyer, *Reports*, f. 288*b*–289), the judges admitted that under 26 Hen. VIII, while it was in force, attainder of treason forfeited the lands of a corporation sole to the Crown.

[2] 1 Mary, sess. 2, c. 16.

[3] *L. & P.* viii. 52. Rymer, xiv. 549.

[4] *L. & P.* viii. 566.

of Parliament, and the bulk of legislation, then as now, was initiated by the Government. That Henry was interested in obtaining this Act is evident from the fact that he ordered the preparation of the Bill of 1532,[1] and endorsed the paper of instructions with his own hand. Probably the final form of the Act owes much to his influence, for he, better than any one else, knew his own plans for the future; hence, perhaps, the provision for the forfeiture of abbey lands, when an abbot should be attainted of treason. Further, the Act seems to reflect two checks which he had experienced. He seems to have pressed for and failed to obtain a judicial decision that it was high treason not to report the political ravings of the Nun of Kent,[2] and he was obliged to retire from the contest with Parliament over the attainder of More and Fisher for supporting her. He was told that unless More's name was omitted from the Bill it would certainly fail to pass the House of Lords; according to Roper, he replied that he would go down in person and see that it did pass. Eventually, however, he was obliged to yield in order to avoid a parliamentary defeat. More's name was taken out of the Bill, and Fisher was attainted of misprision only; Parliament had carried its point. More, however, knew that though for the present he was saved, the King's anger was relentless. 'In faith, Meg,' he said to his daughter, 'quod differtur non aufertur'; and his conversation with Norfolk, over the phrase 'Indignatio principis mors est,' further showed that he knew what was before him.[3] It may be that it was partly owing to Henry's determination to secure More's death that it was made treason to deny the royal supremacy by words—a provision which a subservient tribunal could if necessary twist to include silence.[4] Before this Act the worst penalties that More and Fisher could incur were those of misprision;

[1] *L. & P.* v. 394. *State Papers*, i. 380. He ordered it to be prepared and engrossed, so he evidently did not expect its rejection.

[2] Fisher, *Polit. Hist.* v. 334. *L. & P.* vi. 1445.

[3] Quoted by Fisher, *Polit. Hist.* v. 338.

[4] *State Trials*, i. 389.

death alone would satisfy the King, and unless the law were altered their execution was impossible.

The form of the Bill must chiefly be due to Cromwell. Every draft is corrected by him, and about 1533 three copies of a Bill for Treasons were among his papers.[1] The clause making it treason to call the King a heretic, schismatic, tyrant, infidel, or usurper is in accordance with his system of seeking out and punishing those who spoke such words.[2] The form of the saving clause was certainly his invention, and bears the stamp of his sinister legal genius. That his contemporaries believed him to be responsible for the statutory making of words treason is evident from the scene which is reported to have taken place in the Council Chamber on his arrest in 1540. 'Some said he was a traitor; others that he should be judged according to the laws he had made, which were so sanguinary that often words spoken inadvertently with good intention had been constituted high treason.'[3] Perhaps, however, his offence lay rather in the harsh execution of the law than in its making.

Finally, what was the share of Parliament in this Act? Much has been written on the servility of Henry VIII's Parliaments, and especially of the one which could pass such an Act as this. But Parliament was in fact less subservient than the older school of constitutional historians chose to believe. In 1529 it rejected the Bill for Wolsey's attainder, and only passed the Bill releasing Henry from his debts on various conditions.[4] The Acts of Uses and Wills, which Henry was particularly anxious to secure,

[1] *L. & P.* vi. 299, pp. 138, 139. One of them is on parchment, so it was not one of the drafts now existing, all of which are on paper. Perhaps it was the engrossed copy prepared for, and rejected in, the session of 1532.

[2] Merriman, *Life and Letters*, i. 116–118.

[3] *L. & P.* xv. 804. Quoted by Froude in his appendix to the *Pilgrim*. The account points to the growth of a definite public opinion against treason by words among the upper classes. *Cf.* Aske's examination, *L. & P.* xii. 901, quoted *supra*, for the opinion of the common people.

[4] Pollard, *Henry VIII*, pp. 278–9. It was really to their advantage to pass the Bill, as they would thus escape new and more general taxes.

were several times rejected, while individual members made speeches directly hostile to the King and to what was known to be his policy. In 1532, when Henry's position was far less secure than it was in 1534, and therefore his need of a new Treason Act greater, a Bill much less destructive of the ordinary liberties of the subject was rejected. In the spring of 1534 Parliament modified at its pleasure the Act for the King's Marriage and Succession, and defeated Henry over the question of More's attainder. As Professor Pollard has expressed it:

'The mere coincidence between the wishes of Henry and those of Parliament is no proof of servility. That accusation can only be substantiated by showing that Parliament did, not what it wanted, but what it did not want, out of deference to Henry. And that has never been proved. . . . The fact that Parliament rejected some of Henry's measures is strong presumption that it could have rejected more, had it been so minded.' [1]

Mr. Fisher, speaking of this Act,[2] says:

'The House of Commons had made many base surrenders, but the Treason Act, which imperilled the most elementary liberties of the subject, did not pass without hot questionings. "There was never more sticking at the passing of any Act than at the passing of the same," says a contemporary. It was a new principle that words should be high treason, and the House of Commons insisted that if the principle was to be accepted, the words should at least be spoken "maliciously." The adverb was forced into the Bill,[3] and was as nugatory in its effects as an adverb in a Bill can be.'

That the Act was not passed without opposition is evident from the fact that the two drafts which remain underwent much correction. But the same fact proves that Parliament could and did alter them to suit its wishes. To the first 1534 draft (B1) Cromwell added a clause making

[1] *Henry VIII*, pp. 261–2. [2] *Polit. Hist.* v. 346.

[3] The authority for this statement seems to be the *Life of Bishop Fisher*, commonly attributed to Thomas Bayly, and written about 1604.

it misprision of treason to speak slanderously or maliciously any words, not declared by the Act to be treason, which tended to the dishonour or danger of the King, the Queen, or their heirs, or the division of the realm. This clause was struck out in the second draft (B2), probably at the wish of the House of Commons, as being too vague and elastic. The deletion of 'extortioner' from the list of epithets which it was to be treason to apply to the King may well have been due to a fear amongst members that they themselves might only too easily be guilty of the offence. A few months earlier, Parliament had refused to make bare words amount to treason; it could have refused again if it had wished to do so, or it could have rejected the Act entirely as it had done in 1532. Nor is there any sign that the Commons forced the word 'maliciously' into the Bill; it forms part of the clerk's text in both drafts.

Further, there is a very interesting point which was unknown to those who have considered the passing of this Act by Parliament to be evidence of servility; the last draft (B2), after correction, agrees with the Act as finally passed and printed. The draft is on paper; evidently, then, the House of Commons made what alterations they wished, and, when they had finally hammered the Bill into a shape which pleased them, ordered it to be engrossed, and passed it through its final stages untouched. They had their way with it, and it represents their wishes. Hence the Act cannot be classed as a piece of tyranny due solely to the King and his all-powerful minister. It was always Henry's policy to make Parliament his accomplice. The Act expressed the wishes of Parliament; it bore the hall-mark of parliamentary approval, and the Parliament which freely chose to pass it must bear the responsibility for its deeds.

THE DERWENTDALE PLOT, 1663.[1]

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Read March 15, 1917.

DERWENTDALE is the valley through which the Derwent runs on the north-west side of the county of Durham. In this valley one of the first Anabaptist churches was gathered in the time of the Protectorate, and here, in the early years after the Restoration, a dangerous plot was formed, which presently ramified through the length and breadth of England.[2] The object of this design, in the words of the man who discovered it, was

'to rise in rebellion against the government, and to destroy Parliament, and murder all Bishops, Deans, and Chapters, and all other ministers of the Church; to break all organs, and further to kill all the gentry that should either oppose them, or not join with them, and to destroy the Common Prayer Book, and to pull down all Churches.'[3]

[1] The main original authority for the statements in this paper is the *State Papers Domestic of Charles II*, and chiefly those dealing with the years 1663 and 1664. The original depositions of many of those examined at York in reference to the plot in 1663 and 1664 survive, and have been preserved in a handsome volume collected by Thomas Thompson of York and given by him to Mr. Ralph Thoresby of Leeds. It is number 33770 in the Additional MSS. Add. 25463, f. 167, contains a list of persons engaged in the plot at Farnley 'to raise war against his Majesty and to subvert his happy government.' These various documents have been supplemented with the Privy Council Register and the Assize and Gaol Books. A little further information is contained in some of the Mickleton MSS. in the custody of Durham University, and also in the Hunter MSS. in the Durham Cathedral Library. References to these and to some other sources are given in the notes.

[2] Surtees, in his *History of Durham*, ii. 390, has given an account of the Derwentdale gathering, but he depreciates the character of the plot there formed, not perceiving its connexion with a wider design. The relation of the Derwentside Anabaptist community is described by D. Douglas in his *Northern Baptist Churches* (1846).

[3] It must be remembered that this confession of Ellerington the informer (Add. MSS. 33770, f. 71), quoted by Surtees (*Hist. Durh.* ii. 89), was given by a man of no very high character, when under examination, and

Such was the programme of those who met in the autumn and winter of 1662–3 in Muggleswick Park, an ancient country residence of the Priors of Durham. As the scheme was reshaped a few months later, the programme altered [1] somewhat in detail, but from first to last the movement was a rebellion against the Government, and its supposed breach of faith.[2] The story has attracted wonderfully little notice. Beyond a few lines in Clarendon's 'History of the Great Rebellion,' a short notice in Burnet's 'History of His Own Times,' a brief account in Rapin and Kennett,[3] and a few allusions to local connexions of the main design as it affected Yorkshire or some other district,[4] there does not appear to be any contemporary treatment of it. Modern writers pass it by without reference. Yet the State Papers Domestic which Mrs. Everett Green calendared fifty years ago are very full of the plot, but, so far as I know, this rich abundance of material has not been utilised for any account of a conspiracy which in its ultimate development was sufficiently formidable.

When the King opened Parliament in March 1664, at a time when the plot was regarded as crushed, he devoted a large part of his speech to what he called 'the late treason in the North,' adding the words, 'I do assure you we are not yet at the bottom of that business.' [5] In the present paper I propose to give you some account of what led to the

must not be pressed in detail. Still its general terms are supported by too many independent informations to be summarily rejected. The words probably represent the intentions of the north-country Anabaptists at the moment when the Muggleswick plotters were discovered.

[1] As to the altered programme, which was framed and then revised later in 1663, see below, p. 132.

[2] The information of Captain Robert Atkinson (leader of the Westmorland conspirators, and afterwards executed for his complicity in the plot) distinctly stated that 'they intended to force the king to perform his promises made at Breda' (*S. P. Dom. Charles II*, 84. 64).

[3] The references are Clarendon, iv. 218, ed. 1759, Burnet, 198; or 342, ed. 1823; Rapin, 111, 88, ed. 1737; Kennett, 831, ed. 1728.

[4] The Newcastle-upon-Tyne connexion is illustrated in the *Diary of Ambrose Barnes*, Surtees Soc., vol. 50, and for Yorkshire cf. *York Depositions*, Surtees Soc., vol. 40.

[5] *Lords' Journals*, vol. ii. 582.

Derwentdale Plot; to describe its discovery and failure; and then to show you how from this beginning a widespread conspiracy developed during the summer and autumn of 1663, and how it continued to assert itself as the King's speech predicted.

The whole plot was dictated by the disappointment felt by Presbyterians, Quakers, and Anabaptists, with other sectaries, as they faced the stern royalist and episcopal régime of the Clarendon legislation. I shall not, however, attempt to distribute the blame for the attempt, since the reports that have come down to us are largely the work of Government officials to whom these sectarian differences meant very little, and who classed as Quaker, or Anabaptist, or Fifth Monarchy man any individual who stood apart from the strict uniformity prescribed by the famous Bartholomew Act of 1662. There are few references in the earliest days of the Restoration to any widespread discontent or sectarian confederation against the Government. The Declaration of Breda, with its promise of liberty to tender consciences, was still fresh in men's minds, and toleration was, no doubt, widely expected.[1] In 1661 there is a tinge of disappointment manifest, and a few traces appear of organisation and restlessness in the sects, so that a proclamation is issued against seditious meetings.[2] At the time of the Coronation in May, fear of disloyalty on the part of the old soldiers is expressed, and they are shut out of London until the ceremony is over.[3] With the pressure of the legislation of 1662 this restlessness developed into more active opposition. There are many proofs of the growing irritation. We have references in that year to disaffection in Kent;[4] to fanatics at Wakefield;[5] to mutterings and meetings in Southwark.[6] In one place the old soldiers want 'to try a bout,'[7] in another there are

[1] *S. P. Dom. Charles II*, 84. 64.
[2] Jan. 10, 1661. *S. P. Dom.*, under date.
[3] *Ibid.*, April 13.
[4] *Ibid.*, January 21, 1662.
[5] *Ibid.*, January 22.
[6] *Ibid.*, January 27.
[7] *Ibid.*, January 29.

whisperings of 'a brave design.'[1] Quakers are buying up horses,[2] meetings of sectaries have been reported in Westminster.[3] When summer arrives there are fanatical meetings near Leeds,[4] and near Wakefield, and grave disaffection is said to exist in parts as far distant as Lancashire and Somerset.[5] All these separate movements had progressed so far before the autumn of this same year, 1662, that fear was expressed of 'a general design to disturb the nation.'[6] With the autumn, rumours brought in were growingly definite. It was said, for instance, in October, that there would be a rising in spring[7]; that there were in London some 20,000 engaged in the coming enterprise;[8] and that in various parts of the country preparations for it were already in progress.[9] The Government was so much impressed by the character of the reports sent in, that in the last week of the year the Lords Lieutenant of counties were ordered to levy the militia tax as prescribed by the recent Militia Act 'for defence of the kingdom from sedition.'[10]

The Derwentdale Plot, then, was probably one of many disaffected enterprises first formed in 1662, and in its inception no more dangerous than similar meetings in Berkshire or Wilts or in some other counties, and certainly not so serious as better organised conspiracies in Bristol and elsewhere. Its importance lies in the fact that it was the first to be detected, so that Bishop Cosin of Durham said of it with perfect truth that it 'was the first discovery of this late intended plot in other places.'[11] In July of this year 1662 strict instructions were issued to all Lords Lieutenant and their deputies, ordering them to be vigilant,

[1] February 14. *S. P. Dom.*, under date.
[2] *Ibid.*, April.
[3] *Ibid.*, May 18.
[4] *Ibid.*, July 7.
[5] *Ibid.*, July 12 and 16.
[6] *Ibid.*, July 12.
[7] *Ibid.*, October 20.
[8] *Ibid.*, October 24.
[9] E.g. Plymouth, *ib.* October 31; Berks, *ib.* October 31; Somerset, *ib.* November 1; Dorset, November 2; Bristol, *ib.* December 22.
[10] *Ibid.*, December 27.
[11] *S. P. Dom.* 91. 81.

'there being too much reason to believe that there is a design among men of desperate fortunes to make some sudden insurrection.'[1] As Lord Lieutenant of Durham, Cosin in 1662 was made acquainted with an intercepted correspondence. This was a series of letters that had passed between Paul Hobson, John Joplin, and one Mary Hutchinson.[2] Hobson had been Deputy-Governor of Newcastle, and was a lieutenant-colonel.[3] Moreover, he was an Anabaptist and a founder of that cause in Northumberland.[4] Joplin had been governor of the gaol in Durham before the Restoration, and with his friend Hobson was deeply opposed to the unconditional restoration of the Church of England. At the moment, the extent of the correspondence already actively carried on between these men and their confederates elsewhere was not known. Cosin and his Deputy Lieutenants proceeded to unravel the matter. He obtained the arrest of Hobson,[5] who was then in London, but Joplin was not apprehended for a month or two after this.[6] Both men were liberated on bond of £1,000 each. Hobson remained in London, but Joplin reurned to the Bishopric to carry on his interrupted plans.[7]

The fruit of their negotiations was soon to mature. Early in March 1663 a great meeting was held in Muggleswick Park,[8] at which all previous assemblies in that place were brought to a focus. Those present took an oath of secrecy by lifting the right hand, and swore that they would discover their intended rising to no one. It must be

[1] *S. P. Dom.* 57. 73.

[2] *Ibid.*, 63. 34, and 34 (1). Cf. Surtees Soc., 55, 99.

[3] Cf. Brand's *History of Newcastle, sub anno.*

[4] For Hobson's share in planting Anabaptism in the North, cf. David Douglas, *Early Northern Baptist Churches.*

[5] *S. P. Dom.* 63. 34.

[6] *P. C. Register*, 56.

[7] *S. P. Dom.* 103. 110 (1).

[8] It is called in one of the confessions 'the great meeting' at Muggleswick (cf. *S. P. Dom.* 103. 110 (1)). What took place then is described by Ellerington in his examination of March 22, 1663, in *S. P. Dom.* 70. 13, and somewhat more fully in Add. MSS. 33770, near end, quoted in Surtees, *Hist. Durh.* 2. 389. Its connexion with wider schemes is described in *S. P. Dom.* 97. 63.

admitted that the bulk of those who were there on this occasion were not very distinguished men, being mainly farmers and tradesmen from the neighbourhood, and from other places in Durham and Northumberland; but they claimed that men of considerable local position, whose names are familiar in north country history, sympathised with them, whilst in England at large 'many thousands of Baptists and Independents were to join with them, with whom they kept daily correspondence by letters and messengers.' Their preparations had been made with some care, since they already had arms and ammunition, and expected a considerable provision of these necessaries.[1] Lady Day 1663 had been fixed for carrying their attempt into execution, but as the day drew near, and probably at this particular meeting at Muggleswick, it was decided to defer the execution of their design for a month or two, until the new session of Parliament declared itself, and defined the attitude to be taken towards their grievances. And now, moreover, arrangements were made to send messengers to Yorkshire, to London, and elsewhere for the further development of their scheme.

There was a certain Anabaptist present whose conscience pricked him. His name was John Ellerington or Etherington, and he had been in the employ of Lady Forster[2] of Blanchland, a kinswoman of the famous Dorothy Forster; but of late he had taken fresh service with an Anabaptist of Shields. He was an accredited prophet in his community, and was fully in their confidence.[3] As he afterwards told the story, he related that he was 'troubled in conscience at the horrid resolutions of those of his own persuasion and other

[1] *S. P. Dom.* 81. 77, which is Sir Thomas Gower's useful diary of the northern part of the general plot.

[2] This Lady Forster was widow of Sir Claudius Forster of Bamburgh and Blanchland. She resided sometimes at Blanchland and sometimes in the South Bailey, Durham. See *A History of Northumberland*, 1. 156, and references in that volume, p. 162, and vol. 6, under Blanchland.

[3] See *S. P. Dom.* 70. 13 for Cosin's report, and *ibid.* 98. 34, and 96. 33 and 33 I and II., also 96. 70, and 97. 33, for Ellerington's own confessions.

separatists.' He accordingly confessed[1] what was on foot. It was arranged for him to see Bishop Cosin at Auckland, and in his presence the whole design was opened up and instant action taken.[2] Within a day or two most of those named by the informer were arrested and taken to Auckland, and a preliminary report was sent to the Privy Council. Meanwhile the Deputy Lieutenants and Justices prosecuted an active search with the help of the Militia officers, and succeeded in securing nine whom the informer had mentioned.[3] The rest got to know of what was taking place, and escaped, some into Scotland, others into the more inaccessible parts of Northumberland. For the present the prisoners were kept in gaol until the next gaol-delivery, but in the absence of the Assize Records of the Northern Circuit for the corresponding date it does not seem possible to trace their fate in detail. It is certain, however, that the real contrivers of the Derwentdale Plot, whose names transpired in later examinations, managed to escape for the present. No doubt Cosin and his friends imagined that all further danger would be at an end as soon as the fugitives were secured. The Derwentdale Plot was indeed at an end, but the authorities in Durham and Northumberland were merely at the beginning of a long and anxious period during which their best efforts were needed to cope with the renewal of plots in those counties, and with increased rather than diminished correspondence between the northern conspirators and their confederates in other parts of the country, and even outside England, in Scotland, Ireland, and Holland.

A very grave mistake was made in liberating Paul Hobson[4] and John Joplin on bond.[5] If these men had been committed to the Tower at this stage there might have been, in Durham and Northumberland, no sequel to this

[1] *S. P. Dom.* 98. 34.
[2] *Ibid.* 98. 4 and 34.
[3] *Ibid.* 70. 58. The Bishop was warmly thanked by the Council. *P. C. Register*, 56, p. 373.
[4] See above, p. 129.
[5] *Cosin Corr.*, vol. 55, p. 104.

premature explosion, for every mention of these two men goes to prove that they were then the arch-plotters, so far as that district was concerned.[1] It is in the light of subsequent investigations that we are able to trace the next turn of events, and to reconstruct the story of what followed. To that rapid development from this beginning I now direct your attention. At first the measures of Cosin acted as a severe check upon the proceedings. Those in the secret had built their hopes on the north country design. Stress is laid on the important part in the whole scheme that was to be played by the northerners. 'There was a great desire of the good people so-called . . . that there should be an appearance of some well-affected in the north to stand up for owning the old cause which they of London could not there, as they said, effect.'[2] So runs one confession, and another says that London was at one time to have led the way, until a message was sent thence to the north 'that it was desired that Yorkshire and Bishopric was to begin and rise the first.'[3] Still the action taken by Cosin was no more than a check. At the very time of the Muggleswick meeting in March the general organisation of a widespread plot was far developed. An active agent in the elaboration of the scheme was a certain Yorkshireman called John Atkinson, familiarly known as The Stockinger. He got together a London council of six persons who were all old soldiers of Cromwell's days—Blood, Locker, Captain Wise, Jones nicknamed Mene Tekel, Crew, and Major Lee.[4]

[1] There were others whose names are given in various lists of prisoners and agitators, e.g., *S. P. Dom.* 96. 69 and 70; also 99. 110 (1). The latter list is particularly useful, for it gives not only the northern names but those conspirators who were connected with some twenty counties of England, besides those from the West of England and South Wales. The total number of agitators in England and Wales is 198, of whom 85 appear to be officers with the rank of Colonel downwards.

[2] *S. P. Dom.* 97. 63. [3] *Ibid.* 97. 18.

[4] *Ibid.* 115. 36 (1). This document is an information of the spy Leonard Williams, dated 18 March 1665, in which he directly attributes the formation of the central council to this obscure John Atkinson of Askrigg.

In the north there was a corresponding council, or secret junto, of which Atkinson was a prominent member, whilst Colonel Salway, Mr. Henry Nevill, Mr. Rimer, Nathaniel Strange, and men called Tong, Headlam, Spurway, and Ede were either members of it, or in correspondence with it.[1] At all events this northern junto was already active in March.[2] Ellerington, the Anabaptist informer, was doubtless aware of all this, and was kept a prisoner by Cosin with a view to getting further information from him.[3]

About the middle of May the reconstituted and amplified scheme was well in train. It was intended to prevent all risk of another miscarriage, and consequently the proceedings were carried on with increased secrecy.[4] At this point internal dissidence was a danger, and long negotiations took place for the purpose of drawing up a declaration to unite the varied elements of the plot with the ulterior purpose of presenting it some day to the King himself.[5] It was framed for the northern contingent by Dr. Edward Richardson, who previous to the Restoration had been Anabaptist Dean of Ripon, and was now a constant and vigorous supporter of what was going forward.[6] The document took different shapes before its completion, and was referred from north to south more than once. In its

[1] *S. P. Dom.* 97. 98.

[2] See the express note on this point, *ibid.* 115–36 (1).

[3] A confederate called Crowder or Crowther (whose subsequent examination is given in Add. 33770, f. 10) was sent on April 16 to Liverpool 'to meet some out of Ireland.' Crispe, Jolly, and others from Lancashire and other counties met at Coaley and other places.' In June there was a considerable rising in Dublin. See *S. P. Dom.* 81. 77.

[4] *S. P. Dom.* 81. 77.

[5] *Ibid.*

[6] This important northern agitator had been appointed by the Long Parliament preacher if not Dean of Ripon Minster. He was extruded at the Restoration, practised as a physician at Harrogate, and took a great part in the proposed rising of 1663. When it was discovered he managed to flee into Holland where apparently he died some years later. In Holland he compiled a book called *Anglo-Belgica—The English and Nether-dutch Academy in Three Parts :* Amsterdam 1677. The book was designed to promote intercourse between English and Dutch, and is practically a conversation manual. See Walker's *Sufferings of the Clergy*, under Ripon, also *S. P. Dom.* 98. 1, 115. 38; also Add. MSS. 33770, ff. 34, 42, &c.

final form it was a new edition of the Derwentdale manifesto already quoted, and set forth their agreement 'to take up arms to fight for a gospel magistracy and ministry against the Bishops, the Book of Common Prayer, Excise, "Chimney Money," Subsidies, and to establish liberty of conscience.'[1] Secret correspondence was now organised between the North and the West, and vigilant means were taken to prevent discovery. Before the month ran out it was agreed to make York the object of attack when the day should be fixed for the rising.[2]

June was an eventful month in the further development of the design. By this time, as the later confessions prove, two Scottish correspondents had come into Yorkshire to consult with the conspirators,[3] and it is to Yorkshire that we must now look as the head centre of negotiations which were pressed on vigorously during the summer months. On the 9th, Captain Robert Atkinson,[4] representing a Westmorland and Cumberland branch of the plot, met others at the Spa in Yorkshire, more familiar to us as Harrogate, and began a series of conferences in Yorkshire, at which all the steps to be taken were duly settled. There, 'under colour of drinking the waters,' representatives met together from several counties, and received reports by accredited agents from their correspondents in London.[5] The Spa meeting was followed by another at Pannal, at which a certain Captain Roger Jones, or Rogers, was the leading spirit, going on thence to various other northern centres, and conferring with the agitators he met.[6] In these meetings, which took place at intervals until September, the shape of the proposed rising was gradually evolved. A great accession to their ranks was Colonel Greathead, a Common-

[1] See *S. P. Dom.* 81. 77, 97. 98, and Add. MSS. 33770, ff. 25. 38.
[2] *S. P. Dom.* 81. 77.
[3] *Ibid.*, and 98. 1.
[4] He had been governor of Appleby Castle, and represents himself as cajoled into taking part in the conspiracy. He was ultimately executed, after escaping and further plotting, September 8, 1664. His own full confession is given in *S. P. Dom.* 84. 64.
[5] *S. P. Dom.* 98. 1.
[6] *Ibid.* 81. 77, 82. 107 and 108.

wealth soldier of renown, who was regarded, says one examinate, 'as a knowing soldier, and one that had great interest among the old soldiery, and so absolutely necessary to the military part that nothing was to be done without him, and therefore fully entrusted with all that concerned the north.'[1] He with others conferred at Doncaster, Boroughbridge, Harrogate, in order to debate the design. It was resolved to surprise York in the August Assize week,[2] and to seize Durham, Newcastle, Berwick, and then to march southwards.

By July 22 an information was sent in to a Deputy Lieutenant of Yorkshire that 'something extraordinary is in hand.'[3] Two days later it was reported 'all are ready in Yorkshire and the four northern counties to be up in a few days; the Quakers are engaged to a man . . . it is a wild business, and only formidable from the disbanded officers and soldiers among them.'[4] Informers multiplied, and one of them gave July 31 as the date on which the details of the plot were first revealed by him to the authorities.[5] On August 3 Sir Thomas Gower, the vigilant High Sheriff of Yorkshire, and a Deputy Lieutenant of the North Riding, expressed his grave fears in a letter to Albemarle.[6] It is to the unwearied watchfulness and to the excellent system of espionage instituted by Gower that the failure of the plot once and again in Yorkshire and its correspondent northern counties is due. The enthusiasm of the conspirators had now reached fever height, and they looked forward with confidence to divine intervention on the expected day.[7] They anticipated 'a more wonderful appearance of God which others haply would deride as merely fanatical than the probability of effecting anything by main strength.' The final plan was to attempt York on Thursday, August 6, and to seize the Castle, whilst parties

[1] *S. P. Dom.* 83. 42.
[2] *Ibid.* 81. 77.
[3] *Ibid.* 87. 31.
[4] *Ibid.* 87. 50.
[5] *Ibid.* 109. 125.
[6] *Ibid.* 78. 16.
[7] *S. P. Dom.* 97. 63, in the original document.

from various northern centres fell upon all resistance offered by the gentry and others.[1] But, probably through Gower's information, miraculously, as Paul Hobson thought [2] when he heard of it, Buckingham was able to march northwards [3] at the very time fixed for falling on York, and so that part of the design collapsed when the foot soldiers, marching up from the south, entered the city. And then Gower, whose plans had been maturing for decisive action, took a bold step, and within two days seized about a hundred of the chief conspirators, bringing them to York on the pretext that he was arresting them for taking part in illegal meetings. It was cleverly done, for this specific charge alone was put forward, and no hint given of his very full knowledge of the plot.[4]

Gower's action must have been a severe blow, but it was in no way fatal to the general enterprise which by now was far too well established to be readily crushed. For the present, the meetings of the conspirators were allowed to continue, and some of those taken prisoner were set free on bail with the promise to give in all information that they could gather. By this system of espionage, which was carefully organised all through the course of the plot, Gower [5] and others were able to keep *au courant* with every new development, which was at once reported to the Principal Secretary in London. Early in September two northern envoys were sent up to London to confer with the Committee of Secrecy there, and this important conference seems to have arranged the final plans for a general rising, which this time they intended to succeed. The envoys wrote that the design 'went well forward, and that the west outdid the north,' and that their friends should be ready.[6] The evidence, as I read it, seems to prove that the previous plan had been abandoned. The leaders had still arranged for the outbreak to take place in the North, as we have

[1] *S. P. Dom.* 81. 77.
[2] *S. P. Dom.* 79. 163.
[3] *Ibid.* 97. 63.
[4] *Ibid.* 81. 77.
[5] Add. MSS. 33770, f. 11b.
[6] *S. P. Dom.* 81. 77.

seen, but from the date of the conference in September they abandoned the idea of beginning in Yorkshire and rolling up by degrees to London. The new scheme was a simultaneous rising all over England, since meetings in various places reported a general readiness. So far as the northern plotters were concerned, they were informed on 25th September by their envoys returning from London[1] that the plot was now ripe, and that the 12th October, fixed for the enterprise, still stood. On that day their friends were to rise in every county, whilst in London a party was to fall upon Whitehall and seize the Duke of York and Albemarle, the Lord Chancellor, and the Lord Treasurer.[2] The military programme was complete, and read as follows. Nottingham and Gloucester were to be taken in order to hold the Trent and Severn. Boston was to be fortified in order to receive ammunition and supplies from Holland. Newcastle and Tynemouth were to be seized for the same purpose, and as posts of communication with Scotland.[3] They were assured at the conference of considerable numbers in various counties of the south and west,[4] and boasted of agents in France, Holland, and Scotland,[5] asserting that many important persons in England were on their side. Other informers subsequently added details. The West Riding was to be commanded by Colonel Peirson and Major Greathead. The Bishopric was in the military charge of Captain Jones, whom we have already encountered. He was helped by Captain Hutton and Captain Shipperdson. Colonel Hutchinson was in command of the Nottingham contingent, and other confederacies were in charge of various Cromwellian officers. Then Birch was to lead Lancashire; and Ludlow, who was actually in Switzerland, was freely said to be at the head of troops from the west. Their greatest strength, indeed, was said to be in the west.[6] All these details were furnished by Walters,

[1] *S. P. Dom.* 81. 77. [2] *Ibid.* 115. 36, cf. 38.
[3] Add MSS. 33770. f. 33b. Evidence of Walters.
[4] *S. P. Dom.* 81. 77. [5] *Ibid.* 80. 115, 122 [6] *Ibid.*

who held an important commission. By the last week in September the four northern counties were reported to have 10,000 men ready to rise, and all their preparations were complete.[1] An important document which seems to have been drawn up at this stage gives the final view of the project on the eve of its proposed execution.[2] The general scheme was fixed and all the commands settled. Money, too, was ready, and the confident expectation of immediate success animated the rebels.[3]

Such was the posture as the day drew near. About 9th October, and within three days of the date fixed, a messenger came down from London to postpone the rising for a fortnight. Different reasons were given for the delay: one that accessions to their ranks would be forthcoming if that respite were given ;[4] another that some dissidence had arisen between the Fifth Monarchy men and the rest.[5] In the North one enthusiastic leader, Captain Oates, refused all delay, and actually met some 200 of his band at Farnley Wood, near Leeds, which had been appointed as the rendezvous of the Yorkshire contingent. Here, when they found that the greater proportion of their confederates were missing, they slowly dispersed. Meanwhile Gower made the most of the opportunity occasioned by the delay. His nets were ready spread, and on the very eve of the Farnley meeting, about ninety principal officers and agitators in the North were arrested in their own houses, and were brought prisoners to York next night.[6] And thus, for the third time within a year, the north country contribution to the general scheme collapsed like a pricked soap-bubble. Indeed the measures taken were very complete. Gower had known the details of the plot for some ten weeks.[7] Train-bands were in readiness ; spies were vigilant ; voluntary associations of the gentry and their tenants were in arms in some of the northern counties if not more widely

[1] *S. P. Dom.* 80. 115. [2] *Ibid.* 80. 139.
[3] Cf. Add. MSS., 33770 f. 22. [4] *S. P. Dom.* 81. 77.
[5] Add. MS., f. 11. [6] *Ibid.* 81. 77. Cf. 81. 53. [7] *Ibid.*

still.[1] Gower, who played the most prominent part in the discovery of the northern connexions of the plot, wrote to Secretary Williamson that 'he has not had time to write and hardly to sleep. He has taken up the leaders to such purpose that none are left' save a couple at most. He adds that he 'has caught the most active rebels, having excellent instruments; they impeach one another and great men are named.'[2]

But Gower was not the only one so employed. Instant measures were taken by the Deputy Lieutenants in Cheshire and Lancashire,[3] in Bristol,[4] which had long seethed with rebellion, in Wilts,[5] and in Nottingham.[6] In some places there was considerable alarm whilst the agitators were being rounded up;[7] elsewhere the conspirators had been acting with such secrecy that information could not be obtained;[8] but the general inclination was to consider the means taken as fully effective, and the presence of train-bands and volunteers as a pledge of safety.[9] And so, within a few days, the militia were in some places, at least, dismissed,[10] whilst the volunteers amongst the gentry and the freeholders who had assembled on alarm being given dispersed again before the week was out in Northumberland on receiving a letter from the Bishop of Durham to say that it was unnecessary to keep them longer in arms.[11]

Justices and Deputy Lieutenants began examinations of prisoners at once. A full and informing record of those taken in Yorkshire survives,[12] from which it appears that a very large number were interrogated, and that the more important of them were remanded again and again, one man called Walters, for instance, being re-examined at intervals from October 20 to February 25.[13] Those who

[1] *S. P. Dom.* 81. 63, and 82. 81.
[2] *Ibid.* 82. 44.
[3] *Ibid.* 81. 81.
[4] *Ibid.* 81. 96, and 92. 77.
[5] *Ibid.* 81. 98.
[6] *Ibid.* 92. 58.
[7] *Ibid.* 82. 87.
[8] *Ibid.* 81. 91.
[9] *Ibid.* 82. 26.
[10] *Ibid.* 82. 37.
[11] Mick. MSS. 31, f. 68.
[12] Add. MSS. 33770.
[13] See for Westmorland, *S. P. Dom.* 82. 52, and for Wilts, 82. 102.

appeared to be agitators in chief were sent up to London, imprisoned in the Tower, and were brought before the Lord Chief Justice or a Principal Secretary,[1] the main attempt being to get them to implicate their confederates.[2] So Ellerington is remitted to London[3] with other prisoners,[4] and Paul Hobson is committed to the Tower of London,[5] where he is questioned on several occasions, and at last is transferred to Chepstow, where, 'a poor perishing prisoner,' he petitions after a full year to be allowed to go to Jamaica.[6]

Meanwhile the more dangerous cases, and especially those who were likely to give useful information, were remitted to the Assizes held in the various centres during the early months of 1664. A request had been made during the preliminary examinations that a commission of oyer and terminer should be issued for York to deal with the northern prisoners, but the request was apparently disallowed, and the long weary process of imprisonment, examination, assize, and remand went on. At the January York Assizes twenty-one persons were condemned to death for treason:[7] eighteen were executed at York and three at Leeds. Their heads were set up on the gates of York, two being sent to Doncaster, and two to Northallerton,[8] so that all who fared north or south on the Great North Road might see and fear. Those remanded from January, and others committed since that date, were tried at York in April.[9] Thus the local prisons were full of captives waiting trial, and some were in the Tower of London, whence they were sent 'to divers castles in England, Wales, and the Channel Islands.' Tangiers, part of the dowry of Catherine of Braganza, was utilised in this way by transporting prisoners to it.[10]

It was impossible, however, to allay disaffection which was so widespread. At the very moment that the execu-

[1] *S. P. Dom.* 83. 42.
[2] Cf. *ibid.* 82. 47.
[3] *Ibid.* 97. 67.
[4] *Ibid.* 98. 103.
[5] *Ibid.* 81. 49.
[6] *Ibid.* 101. 63.
[7] *Ibid.* 90. 95.
[8] *Ibid.* 91. 4.
[9] *Ibid.* 96. 70, and 96. 42.
[10] *Ibid.* 95. 104–110.

tions were taking place at York the ominous aspect of affairs in the Bishopric caused the justices of the County Palatine of Durham to draw up at Quarter Sessions a voluntary and free agreement for the better preserving of His Majesty's peace and the safety of his loyal subjects. Those who signed undertook,

'upon any occasion offered by disaffected persons and common enemies to His Majesty's public government . . . to be ready with our horses and arms, and with all the free assistance that we can procure from our neighbours, to repair unto such place or places as shall be appointed us, and at our own voluntary charge for the space of so many days (more or less as need shall require).' [1]

The names of those who subscribed survive for the county of Durham, where it may be said roughly that most of the country gentlemen and freeholders undertook this service.[2] Some references in the State Papers to such voluntary associations in other parts of the country give colour to the supposition that this kind of subscription was general in the north and, perhaps, elsewhere.[3] And there was reason for such action. The plotting can be traced all through 1664, and even into 1665. One report says: 'the fanatics are rebellious and dissatisfied and begin again to meet with much confidence.' [4] And that is typical of what was going on in many districts, and it serves to explain, if not to justify, the Conventicle Act which was passed in the midst of these turmoils in 1664. Taken in connexion with the history of that year, and the year that preceded it, the object of the Act was not to crush the spiritual exercises of John Bunyan and such as he, but to prevent the really dangerous and anarchical cabals of men who, under the cloak of religion, were plotting the overthrow of the Monarchy. As its preamble states it was framed to provide 'more speedy remedies against the growing and dangerous practices of seditious sectaries and other disloyal

[1] Mickleton MSS. 31, f. 77.
[2] *Ibid.*
[3] E.g. *ibid.* 82. 52.
[4] *Ibid.* 94. 9.

persons who, under pretence of tender consciences, do at their meetings contrive insurrections as late experience hath showed.'[1] As a result of this Act, Secretary Bennet redoubled his vigilance and perfected his espionage until his emissaries in England and abroad ransacked at last the very uttermost of the recesses of the conspiracy.[2]

But, in and from 1665, two fresh and absorbing anxieties occupied the minds of those in authority. One was the appearance of the plague, which called forth precautionary measures all over England, interrupting communication and travelling; the other was the Dutch War, which the sectaries at first hailed with hope as likely to prove an interposition of providence to further their designs. As it turned out, those two events, the plague and the war, did much to stop the dropping fire of conspirators who still from time to time met and corresponded and strove to organise their hostility against the Government.[3]

[1] 16 Charles II., cap. 4. [2] *S. P. Dom.* 115. 35–36.

[3] [Special acknowledgment must be made of the kind help given by Mr. Hubert Hall to the writer of this paper. Mr. Hall undertook a good deal of research at the Public Records Office, investigating the gaol-books and other documents, and drawing attention to various returns which were unknown to me.—H. G.]

CHARLES V AND THE DISCOVERY OF CANADA

By H. P. BIGGAR, F.R.Hist.S. (of the Canadian Archives)

To Canadians, and perhaps to English people as well, it will come as a surprise to learn that in the sixteenth century an Emperor of Germany laid claim not only to Canada, but also to the region now embraced within the borders of the United States. The basis of the claim was a bull issued by Pope Alexander VI in 1493.

Christopher Columbus reached Spain on his return from the discovery of America in March 1493, and the bull in question, *Inter cetera*, was issued by Alexander VI on May 4, 1493. Alexander VI was not only himself an Aragonese, but was under considerable obligation to King Ferdinand of Aragon, Isabella of Castile's husband, for favours conferred both upon himself when Bishop of Valencia, and also upon his son, the notorious Caesar Borgia, whom Ferdinand had legitimised in 1481 and nominated Bishop of Pampeluna in 1491.[1]

The essential portion of this bull *Inter cetera* of May 4, 1493, which was addressed to Ferdinand and Isabella, reads as follows :—

'We of our own motion . . . free will and certain knowledge, and with the plenitude of apostolic power, by the authority of God omnipotent granted to us through blessed Peter and of the vicarship of Jesus Christ which we exercise upon earth, by the tenour of these presents, give, concede, and assign for ever to you and to the kings of Castile and Leon, your successors, all the islands and mainlands discovered, and which may hereafter be discovered, towards the west and north, with all their dominions,

[1] H. Van der Linden, 'Alexander VI and the Demarcation of the Maritime and Colonial Domains of Spain and Portugal, 1493–1494,' in the *American Historical Review*, vol. xxii. 1–20, October 1916.

cities, castles, places, and towns, and with all their rights, jurisdictions and appurtenances . . . and we make, constitute, and depute you and your foresaid heirs and successors lords of them, with full, free and absolute power and authority and jurisdiction, drawing, however, and fixing a line from the Arctic pole to the Antarctic pole, which line must be distant from any one of the islands vulgarly called the Azores and Cape Verde islands, 100 leagues west and south. . . .

'And we most strictly forbid every person whatsoever, and of whatsoever dignity (even imperial or royal), state, degree, order or condition they may be, under the penalty of excommunication *latæ sententiæ*, which they will incur from the very fact of transgression, to presume, either for trafficking, or for any other purpose whatsoever, to approach, without special licence from you and your foresaid heirs and successors, the islands and mainlands found or that shall be found beyond this line.' [1]

Portugal at once raised objections, and sent commissioners to Spain to negotiate an agreement which was concluded on June 7, 1494, at Tordesillas.[2] By this treaty the line was moved from 100 leagues west of the Cape Verde islands to 370 leagues west of those islands. All lands and islands discovered in the ocean to the east of this line were to belong to Portugal, while everything found to the westward became of right the property of the Spanish monarchs.

This agreement was confirmed by Pope Julius II on January 24, 1506, but no fresh bull was issued, nor was the actual line ever marked out by either power. According to calculations that have been made, however, this line of demarcation would, on our modern maps, pass to the east of the mouths of the Amazon, or say longitude 49° 45′ west.[3] This is to the east of the most easterly point of Newfoundland, the meridian of 52° just missing Newfoundland.

[1] S. E. Dawson in *Transactions of the Royal Society of Canada*, 2nd series, vol. v. 1899, pp. 529–34.

[2] M. Fernandez de Navarette, *Colección de los Viajes*, etc., II. No. LXXV., Madrid, 1825.

[3] H. Harrisse, *The Diplomatic History of America*, passim (London, 1897).

On Ribero's map, however, the line is made to cut Cabot Strait in longitude 60° W.

Since in matters ecclesiastical, the kings of England and of France did not recognise the supreme jurisdiction of the Popes, they were even less disposed to do so in affairs temporal. Accordingly in 1496 Henry VII granted letters patent to John Cabot for a voyage westward, and on June 24, 1497, Cabot sighted our modern Cape Breton. On Cabot's return to England fresh letters patent were issued for a second voyage in 1498, during which John and Sebastian probably explored the coast of America from Greenland almost to Florida.[1]

Although the Spanish ambassador in England wrote to Ferdinand and Isabella that these discoveries fell within the Spanish sphere of influence, no protest appears to have been made by them; for Henry VII continued to despatch expeditions to Newfoundland in 1502 and 1503. During these same years the Portuguese also visited this region in the hope of finding a north-west passage to their possessions in the East. The results of their explorations are set forth on Ribero's map, as are those of the Spaniard, Stephen Gomez, who, in 1524, sought to find in the north a passage to the east similar to that discovered by Magellan in the south.

Although the region about Newfoundland had thus been explored by the English, the Portuguese and the Spaniards, and, as we see on Ribero's map, was considered to fall within the Portuguese sphere of influence, yet the French had early discovered the rich cod-fishing on the Banks of Newfoundland, if, indeed, Bretons had not made their way thither before the Cabots. We first hear definitely of their presence on the Banks in 1504, but their numbers increased rapidly. Fights frequently occurred between the French and the Portuguese, which latter seemed to the French 'to have drunk the dust of Alexander the Great's heart, so immense was their ambition.' 'Had it been in their power

[1] H. P. Biggar, *The Precursors of Cartier* (Ottawa, 1911).

to do so,' continues this writer, 'they would have closed the seas from Cape Finisterre to Iceland.'[1]

In 1523 Francis I sent Giovanni da Verrazano, an Italian from Florence, to seek a passage to the East through these seas. Sailing westward from Madeira early in 1524, Verrazano reached the coast of Florida and proceeded northward as far as Newfoundland. Ten years later Francis despatched on a similar errand Jacques Cartier, a Breton sailor of St. Malo, who was born in 1491, and was thus forty-three years of age. As Cartier knew Portuguese, it is probable he had sailed to that country, if not to Brazil, and before being entrusted by King Francis with the important charge now conferred upon him, must have sailed to Newfoundland many times on fishing voyages. Cartier hoped by sailing through the Strait of Belle Isle, which was then called the Strait of Château Bay—a name that still persists—to discover farther west 'certain islands and countries where, it is said, there will be found great quantity of gold and other riches.'[2]

Setting sail from St. Malo with two ships on April 20, 1534, Cartier reached Brest, inside the Strait of Belle Isle, on June 10. This harbour was the terminus of the previous discoveries in that region. The gulf of St. Lawrence beyond was known simply as the Great Bay.

Passing down the west coast of Newfoundland and past Prince Edward Island, then considered to be part of the mainland, Cartier reached the Baie de Chaleur, which he was disappointed to discover was not a strait leading to the East. At Gaspé Bay he seized two Indians, whom he carried off with him to France. A mirage stopped him from sailing between Gaspé and the island of Anticosti, which he rounded at the eastern extremity, and on sighting the Labrador shore, Cartier gave to this portion of the gulf the name of St. Peter's Strait. As the season was now late, it was

[1] Ch. de La Roncière, *Histoire de la Marine française*, iii. 280 (Paris, 1906).

[2] Bibliothèque Nationale, Paris, MS. fr. 15628, No. 618.

decided to postpone the exploration of this strait until the following year. Cartier thereupon returned to Blanc Sablon, in the Strait of Belle Isle, and, setting sail thence on August 15, reached St. Malo on September 5 after a voyage of only three weeks.[1]

Francis I directed Cartier to explore this Strait of St. Peter, and on May 19, 1535, Cartier again left St. Malo with three ships. On August 9 he anchored in our Pillage Bay, on the coast of Labrador opposite Anticosti Island. This being St. Lawrence's Day, Cartier named Pillage Bay the Bay of St. Lawrence, which name was afterwards transferred, through a careless reading of Cartier's narrative, to the whole gulf, and eventually to the great river up which Cartier now proceeded to make his way. Cartier himself always called the St. Lawrence, the river of Hochelaga.

On September 7, 1535, Cartier reached the Huron-Iroquois village of Stadacona, near the site of the modern city of Quebec, which was not founded till 1608 by Champlain. At Stadacona lived the two Indians seized by Cartier at Gaspé. They had gone to Gaspé in the previous summer on a fishing expedition.

Laying up his ships in the river St. Charles, which here enters the St. Lawrence from the north, Cartier twelve days later passed up the St. Lawrence in small boats to the Indian village of Hochelaga, on the island of Montreal, where the rapids of Lachine checked his further progress westward.

When Cartier from the top of Mont Royal, at Hochelaga, was examining the course of the river Ottawa, which here enters the St. Lawrence, an incident occurred which explains the subsequent efforts of the French to penetrate to a mysterious country called the kingdom of Saguenay.

'This [river Ottawa] we think is the river which flows by the kingdom and province of Saguenay. And without our putting

[1] Grant and Biggar, Lescarbot's *Histoire de la Nouvelle France*, ii. 27–58 (Toronto, 1911).

any question or making any sign, our Indian guides took the silver chain of the Captain's whistle and the handle of a dagger which hung at the side of one of our sailors which was of brass as yellow as gold, and made signs that such things came from up the said river . . . but for lack of an interpreter we could not find out the distance to this country.'[1]

On returning to Ste. Croix, where he passed the winter, Cartier learned that while it was possible to reach the kingdom of Saguenay by the river of that name, the best route was up the river St. Lawrence 'to Hochelaga, to a stream which descends from the said Saguenay and enters the said river [St. Lawrence], and that it took one moon to go thither.' The Indians gave Cartier to understand that the inhabitants of Saguenay, who lived in towns and were clothed like the French, 'possessed a great quantity of gold and also red copper.' Canada, according to Cartier, embraced only that portion of the river St. Lawrence in the neighbourhood of Stadacona, near the site of the present city of Quebec. The word is derived without any doubt from the Huron-Iroquois word for 'village,' the modern form being *kanata*. Hochelaga included the district about the island of Montreal, while Saguenay lay to the north of Canada and of Hochelaga.

On May 3, 1536, Cartier seized eight of the Indians of Stadacona, and with two Indian children presented to him by one of the chiefs who lived farther up the St. Lawrence, set sail for France on May 6, 1536, and on July 6 arrived safely at St. Malo, having passed out into the Atlantic by way of Cabot Strait, to the south of Newfoundland.

Unfortunately, just a month before Cartier reached France, war had again broken out between Francis I and Charles V. As a result nothing could be done for some years to continue the search for the mysterious kingdom of Saguenay. On the other hand, no news of Cartier's discovery of the river St. Lawrence reached Spain at this time, so that so far as the Spaniards were concerned,

[1] Lescarbot, *History of New France*, ii. 122.

the geography of this region remained as depicted upon Ribero's map of 1529.

On June 18, 1538, at Nice, Pope Paul III induced Charles and Francis to agree to a ten years' truce. Their reconciliation was completed at Aiguesmortes, where they spent four days together.

Francis was again free to turn his attention to the mysterious kingdom of Saguenay, which promised to unfold before the eyes of the French the riches of a northern Mexico or Peru. He reimbursed Cartier for the keep of the Indians since their arrival in France, and received from Cartier a long memorandum setting forth his requirements in order to make the expedition to the Saguenay a success.

Cartier asked for six ships of at least one hundred tons' burthen and two barques of from forty-five to fifty tons, provisioned, all of them, for two years with provisions of the best quality. Three boats, to be put together in Canada, were also to be taken. In addition to the 120 sailors to man the above, Cartier required some hundred and fifty mechanics and soldiers, among them being forty harquebusiers, thirty carpenters, ten master masons, three lime-makers, thirteen tile-makers, two blacksmiths, two locksmiths, four miners, two goldsmiths 'skilled in handling precious stones,' four artillerymen, six priests, three barbers, and two apothecaries. Beasts, birds, seed, and artillery were also to be taken.[1]

Francis I was personally most interested, and spent several evenings poring over charts of those parts with a Portuguese pilot whom he had taken into his service.

'On two charts belonging to the king, which are well painted and illuminated but not very accurate,' wrote this man to the King of Portugal, 'Francis I showed me a river in the land of Cod whither he has sent twice. On this matter he is very intent, and what he wishes to do would make men marvel. Jacques Cartier on his last voyage brought back three Indians, two of whom are dead, but the survivor is chief of three or four towns, according to the king of France; for all I write I heard from his own lips.

[1] G. Ribier, *Lettres et Memoires*, i. 212 (Paris, 1666).

He told me further that this river which he sent to discover is 800 leagues in length and that up it some distance are two falls. Of the ships he wishes to send thither two will be brigantines which can be taken overland past these falls ; for the Indian chief told the king that beyond these falls there is a large city called Saguenay, where there are many gold and silver mines, and abundance of cloves, nutmegs, and pepper. I believe the king of France will decide to send thither a third time, seeing his great desire towards this.' [1]

What deterred Francis I from doing so in 1539 and 1540 we do not know, unless it was the voyage of the Emperor across France in the autumn of 1539. Charles V was everywhere fêted and royally entertained, spending a week in Paris in a round of festivities. Early in 1540 Charles passed into the Low Countries, where he suppressed the rebellion of Ghent.

Here in the Low Countries, in August 1540, Charles suddenly learned that in spite of Francis' recent profession of friendship, and in contravention of his treaties with himself and Portugal, Francis was ' openly granting licences to all his subjects to try their fortunes in the Indies in the discovery and conquest of new lands.' [2] Charles immediately directed his ambassador in France to inform Francis and his ministers with what astonishment he had heard of the granting of these licences, which ran directly contrary to the terms of the truce of Nice, signed only two years before.

The Emperor at the same time forwarded this information to Spain, giving instructions to the Cardinal of Toledo and the Spanish Council of State to make preparations for fitting out a fleet to attack the French, should Francis still persist in allowing his subjects to proceed to the new lands.

The Cardinal of Toledo replied to the Emperor on October 11, 1540, informing him that the Council of the Indies, after discussing the matter with the Cardinals and

[1] Torre do Tombo, *Corpo Chronologico*, Parte 3ª, Moço 14, Doc. 37.
[2] *Calendar of Spanish State Papers*, vi. pt. i. p. 251.

other members of the Council of State, had decided that the following steps should immediately be taken :

1. Secret inquiries should be instituted in the French ports to discover whether a fleet was being fitted out, and if so, where, and whither bound.

2. Preparations should be begun at Seville for fitting out a strong fleet, and 4000 bushels of wheat were to be purchased there.

3. Ships for the Indies were to be armed and to sail together under convoy.

4. The construction of all forts in the Indies was to be hastened, and those already completed were to be strengthened.

5. Finally all citizens in the Indies were to be provided with arms.[1]

A week later, on October 17, Francis openly issued a commission to Jacques Cartier for the proposed expedition to Canada, Hochelaga, and the kingdom of Saguenay :

'With the desire,' ran Cartier's commission, 'to learn and have knowledge of several countries said to be inhabited and possessed by savage peoples living without knowledge of God, we have at great expense already sent several good pilots, our subjects, to discover in the said countries, and among others we sent out our dear and well-beloved Jacques Cartier, who has discovered great tracts of the countries of Canada and Hochelaga which form the confines of Asia on the west, which countries he found productive of good commodities . . . in consideration whereof we have decided to send back the said Cartier to the said countries of Canada and Hochelaga, and as far as the land of Saguenay, should he be able to penetrate there.' [2]

Cartier was appointed master-pilot of the fleet, with power to choose fifty persons suitable for settlers from the districts of Paris, Rouen, Caen, Blois, Tours, Maine, Anjou, and Guyenne.

[1] Archivo General de Simancas, *Estado, Castilla*, leg. 50, ff. 103–6 and 108–11 ; and Archivo de Indias, Seville, est. 140, cajon 7, leg. 31. Cf. also British Museum, Add. MS., 25592, ff. 194–205.

[2] J. P. Baxter, *A Memoir of Jacques Cartier*, 339–42 (New York, 1906).

Knowledge of the publication of Cartier's commission was at once conveyed to the Emperor, who on November 11 again wrote to the Cardinal of Toledo on this subject. After speaking of the issue of this commission to Cartier, he continued :

'The efforts, therefore, of our ambassador, and those of the ambassador of Portugal, have up to the present not borne fruit. Although I have ordered a reply to be sent to my ambassador in France to continue to insist and make fitting instance that the said licence be not proceeded with, being, as it is, in direct contravention of the treaty between us and the said King of France, and contrary to the concession granted by the Apostolic See to the Kings of Castile and Portugal for the said conquest, it has appeared to me fitting to advise you thereof that you may consider and confer in Spain respecting such further measures as may now be desirable, besides those already taken.

'And it would be well for you to send full information of this licence to the King of Portugal, that in the same way he may on his part take such measures as are required ; and let the person who is in command of the said fleet carry orders to unite with the fleet of the said King of Portugal, and let each fleet give help and support to the other. And should they meet with the ships of the said Jacques Cartier, let them engage and destroy them, since the intention of these Frenchmen is known ; and let all the men taken from their ships be thrown into the sea, not saving any one person ; for this is necessary as a warning against similar expeditions.' [1]

On December 13, 1540, the Cardinal of Toledo acknowledged the receipt of this letter of November 11 from the Emperor, and enclosed a second memorandum giving the results of the further deliberations of the Council of the Indies, at which deliberations had also assisted the Conde de Osorno and the High Commander of Leon, both of the Council of State. The opinion of this Council was that :

1. A spy should be sent to St. Malo to gain information concerning Cartier.

2. The officials at Seville should make a report on all the ships in Andalusia, that those required for the fleet might be seized.

[1] Archivo General de Simancas, *Estado, Portugal*, leg. 372, fol. 6.

3. The Seville officials were also to be instructed to provide one thousand fighting men.

4. A commander of the fleet was to be chosen from among Cortés, the Adalantado of the Canaries and Alvaro de Bazan; and finally

5. The King of Portugal was to be asked to close his ports to French ships.[1]

Meanwhile the Emperor's representations to King Francis against the despatch of the latter's fleet remained unheeded. To the Commendador Mayor of Alcantara, who was then in France, the French king had replied that 'he was not sending these ships in order to make war upon or contravene the peace and friendship then obtaining with the Emperor, but that the sun gave warmth to him as well as to others, and he much desired to see Adam's will, to learn how he had partitioned the world.'[2]

On December 27 the Spanish ambassador in France wrote to the Emperor as follows:

'SIRE,—I again spoke with the King of France concerning the navigation of his subjects to the Indies, not neglecting any of the points contained in your letters, nor any which I thought might have the desired effect, to which he replied as before, that he could not desist from giving the said licence to his subjects, but at least they will not touch at places belonging to your Majesty, nor go to parts not discovered by his predecessors, and belonging to his crown more than thirty years before the ships of Spain had sailed to the new Indies; and as to what I told him that permission to navigate these parts was conceded to your Majesty's predecessors by the pope, and applied to them, he answered that the popes hold spiritual jurisdiction, but that it does not lie with them to distribute lands among kings. In conclusion, Sire, I have not been able to settle anything but that his subjects shall not go to your lands or ports.'[3]

On receipt of this letter at Spires, the Emperor on February 5, 1541, again wrote to the Cardinal of Toledo in

[1] Baxter, *op. cit.*, 357–9. The Spanish text is in T. Buckingham Smith, *Colección de varios Documentos*, etc., pp. 114–16 (London, 1857).

[2] Simancas, *Estado, Castilla*, leg. 53, ff. 333–5; British Museum, Add. MS. 28592, ff. 266–7.

[3] Archives Nationales, Paris, K. 1485, Années 1540–1541.

Spain, approving what had been already done by the Council of the Indies and enclosing a copy of the above letter. The Emperor informed the Cardinal that he was writing to his ambassador at Rome to report the matter to the Holy Father and to give him to understand that the French should not be allowed to do as they are doing, since it was contrary to the Treaty of Nice, concluded through the intervention of his Holiness. Charles added that he 'held his title and right to the Indies from the Apostolic See, and his Holiness, as Father of all, should intervene to settle this matter and prevent the troubles which otherwise may arise.'[1]

This communication was acknowledged by the Cardinal on March 24, 1541, who wrote as follows regarding the proposal to appeal to the Pope:

'To us it appears that your principal objection to the action of the French king should be based upon the fact that your Majesty discovered, conquered and peopled these Indies at great expense, and that you have since continued in peaceful possession of the same; but do not insist too much upon the concession from his Holiness, both because of the difficulty which this might create, and more particularly because of the little regard paid to this argument by the King of France.'[2]

A third memorandum was enclosed setting forth that the Council of the Indies, having carefully considered the whole subject, had resolved, in view of the fact that the treasury was empty, and that 150,000 ducats would be necessary to fit out a fleet, to equip no fleet for that year, but to send weapons and arms of all kinds to the Indies.[3]

Meanwhile Francis, unmoved by the protests of the Spanish and Portuguese ambassadors, continued his preparations for the despatch of a third expedition to the river St. Lawrence in the spring of 1541. On January 15, 1541, he appointed Jean François de La Rocque, Sieur de Roberval (a village not far from Compiègne) lieutenant-general and

[1] Simancas, *Estado, Castilla*, leg. 55, ff. 115 et seq.
[2] *Ibid.*, leg. 51, ff. 5–7.
[3] Buckingham Smith, *op. cit.* 103–7. Baxter, *op, cit.*, 347–8.

leader of the whole enterprise. Roberval was a soldier, and had gained considerable experience under La Marck ; but, so far as is known, he had never been to sea. Until Canada was reached, therefore, Cartier was to have the chief command, but on shore Roberval was to direct the operations for the conquest of the kingdom of Saguenay. Francis now so far recognised the claims of Spain and Portugal as to insert in the letters patent to Roberval a proviso to the effect that he was not 'to occupy any land under the subjection and obedience of our very dear and beloved brothers the Emperor and the King of Portugal.'

Since volunteers were not forthcoming as settlers in the new world, and it was hoped to make a permanent settlement, Francis I gave permission to Roberval to take from the prisons such prisoners condemned to death as in the opinion of the King's lieutenants seemed likely to be useful in the new land. For such persons the King's aim was, ran Roberval's commission, 'to commute the penalty of death into an honest and useful voyage.' Should, however, any of these people return to France without permission, they were to be executed, without any hope of pardon, in the town where first they had been condemned.

This commission, a copy of which was at once forwarded to the Emperor, roused Bonvalot, the Emperor's ambassador, to fresh exertions, and a spy was despatched to St. Malo to furnish a detailed report on the preparations being made there. Early in April this emissary informed Bonvalot that the expedition under Cartier and Roberval was bound for Canada, a country 600 leagues beyond Newfoundland, the distance to which latter country was 760 leagues. Ten ships, provisioned for two years, were being fitted out. Of these ships six were at St. Malo in charge of Cartier, while Roberval was bringing the remaining four from Rouen and Honfleur. Under Cartier were twenty master pilots and four hundred sailors, who were dressed in a black and white livery. He also had twenty carpenters, and was taking eighteen or twenty small boats, each of which was to be armed with

light artillery. Roberval had under him three hundred fighting men armed with harquebuses, cross-bows, and small shields, the latter to protect them against the arrows of the Indians. They were taking in addition twenty horses, as many cows, four bulls, one hundred sheep, the same number of goats, and ten pigs for breeding in the country. Carts, farming implements, and twenty ploughmen also formed part of the expedition, which hoped to sail eight days after Easter and to reach Canada in four weeks.[1]

This information reached Charles V at Ratisbon early in May. On May 7, 1541, he thereupon wrote to the Cardinal of Toledo as follows :—

'I have received letters from my ambassador in France, which will accompany this, by which you will learn of the departure of the said fleet, and its alleged destination, and because of the speed with which it has been despatched, there appears to be no means of impeding the expedition. Nevertheless, it would be well to investigate where these new lands spoken of in the said report lie, which it is said are not more than 750 leagues from France and another 600 to Canada, whither they go to explore and settle. This land Canada being so near, it would seem to fall within our limits. Since this matter calls for a speedy remedy, I charge you forthwith to summon the Councils of State and of the Indies, to discuss the question of the fleet which it is necessary to fit out; and if it cannot be fitted out this year, let it be got ready for the coming year. And having communicated with the very reverend Cardinal, our Governor of the Indies, advise me of what appears necessary, that proper steps may be taken. And I must not neglect to warn you, that even if this land where the said French are going to settle does not lie within our limits and is of little value, they may from thence go farther afield and reach the lands within our limits, which would be a great anxiety and bring destruction upon our colonies; and by building fortresses and settling in that land they may take root and fortify themselves, and it will be difficult to drive them out, unless it is done speedily. And as I wish to know whether the said new lands and Canada lie to the north, or in what part and limits they lie, procure information and advise me thereof; and con-

[1] *Bibliothèque de l'École des Chartes*, vol. lxxiii. pp. 297–300 (Paris, 1912).

sider whether it would be well to send a caravel after the said fleet to see what it does, and to what region it goes, so that some intelligence may be had thereof, in order to take such steps as the occasion requires.' [1]

On June 26, 1541, the Cardinal of Toledo replied to this letter as follows:

'We saw the report which your Majesty caused to be sent to us respecting what has been learnt concerning the fleet which the King of France is sending to the Indies. Here all that your Majesty wrote upon the matter was discussed and debated not only with the Cardinal and the members of the Councils of State and of the Indies, but also with trustworthy persons of much experience in such matters; and especially with the Marques del Valle [Cortés]; and with their approval such resolutions were adopted as your Majesty will see in the memorandum drawn up by the members of the Council of the Indies, which will accompany this.' [2]

Resolutions of the Council of State and of the Indies concerning what was presented to them relating to the Fleet sent out by France.

'It is agreed that if this report is true, that the first land whither they went is distant 760 leagues from St. Malo in Brittany, where the fleet was fitted out, it can be no other land than that which is entered from Bacallaos, a land the Bretons claim to have discovered long ago, since to that region the distance is exactly 760 leagues, and there is no other land on the map on this side or beyond Florida which is that distance away. It is believed this must be the place, and by adding the other 600 leagues, which they say must be traversed beyond Newfoundland, the Bahama Channel is reached, which is the best position they could seize, on the outbreak of war, to inflict injury upon the vessels from the Indies, since most of these come through the said Bahama Channel. This indeed must be their main object in making a settlement upon that coast; for although the land is unproductive, this route is of the greatest importance for their purpose. If this is the case, it is clear they intend to colonise within your Majesty's line of demarcation.

[1] Simancas, *Estado, Castilla*, leg. 54, ff. 31–6.
[2] *Ibid.*, leg. 51, ff. 22–6.

'Since, however, nothing certain is yet known, it seems best, in order to make sure concerning their expedition, to send two caravels on the track of this French fleet. One caravel should be sent to the islands of Cape Verde, to ascertain whether the fleet has passed that way; for some point out that they may intend to go to the river Plate or to the Amazon. This caravel could go and return quickly, and having learned they have not passed the Cape Verde islands, we shall be sure they have gone to Bacallaos.'

This memorandum having been sent to the Cardinal of Seville, he replied as follows:

'TALAVERA, *June* 10, 1541.

'I have read two or three times the decision of the Councils of State and of the Indies with reference to the fleet which it is said France is sending to the Indies, and after carefully considering their lordships' deliberations, see nothing to add to them.

'I am, however, persuaded that the French are thinking neither of the river Plate nor of the Bahama Channel, where it would be no use for them to found colonies and put themselves in a position to prey upon our ships, since this would be breaking the truce between France and Spain, which all men ought reasonably to hope will still continue a few years.

'To me it seems that their motive is that they think from what they have learned that these provinces [of Canada, Hochelaga, and Saguenay] are rich in gold and silver, and they hope to do as we have done [in Mexico and Peru], but in my judgment they are making a mistake, for with the exception of the fisheries, this whole coast as far as Florida is utterly unproductive. In consequence they will waste their efforts, or at best return with the loss of most of their people and the greater portion of all they have taken from France.' [1]

In accordance with the memorandum of the Council of the Indies, two caravels were despatched in search of Cartier in the summer of 1541. That for the Cape Verde islands left the Guadalquivir on August 26, and a month later reached those islands, where it learned that four French ships had sailed west-south-west. Proceeding in the same direction, the caravel was forced by bad weather to take refuge in

[1] Buckingham Smith, *op. cit.*, 109–11; Baxter, *op. cit.*, 350–54.

Porto Rico. It heard nothing of Cartier, but reached Spain safely in the following January, 1542.[1]

The second caravel, for Newfoundland, left Bayona, in the north of Spain, on July 25, two months after Cartier's departure from St. Malo for the St. Lawrence. At Newfoundland this caravel learned that Cartier had already passed into the St. Lawrence. With this information the caravel returned to Spain, reaching home on November 17, 1541.[2]

According to the only extant account of Cartier's third voyage, which is preserved to us in English by Richard Hakluyt, Cartier had sailed from St. Malo with five ships towards the end of May 1541.

'And after Cartier had caused the five ships to be furnished and set in good order, Monsieur Roberval came down to St. Malo and found the ships fallen down to the roadstead with their yards across, full ready to depart and set sail, staying for nothing but the coming of the general and the payment of the furniture. But because Monsieur Roberval had not as yet his artillery, powder, and munitions, which he had provided in Champagne and Normandy, and he was loath to depart without them, he determined that the said Cartier should depart and go before while he himself would prepare a ship or two at Honfleur, whither he thought his things were come. And after the conclusion of these things and the said Master Roberval had taken muster and view of the gentlemen, soldiers and mariners, the wind coming fair, the aforesaid five ships set sail together, well furnished and victualled for two years, the 23 May, 1541.'[3]

Storms separated the ships, which had not thirty hours of fair wind. 'The cattle, goats, hogs, and other beasts were watered on cider and other dainties.' The fleet was collected in Newfoundland, and reached Stadacona on August 23. Cartier informed the new Indian chief, Donacona's successor, that Donacona was dead, but that the other Indians 'had stayed in France as great lords, and would not return to their country, whereat the new chief

[1] Buckingham Smith, *op. cit.*, 116–18.

[2] J. T. Medina, *Una expedición española á la Tierra de los Bacallaos, 1541* (Santiago, 1896).

[3] R. Hakluyt, *Principall Navigations*, viii. 264 (Glasgow, 1904).

made no show of anger,' 'and I think he took it so well,' adds the chronicler, 'because he remained lord and governor of the country by the death of the said Donacona.'

After laying up three of his ships in the river of Cape Rouge, which enters the St. Lawrence from the north, nine miles above Quebec, Cartier on September 7 set out in two boats for Hochelaga, 'in order to view and understand the fashion of the rapids which had to be passed to go to Saguenay, that he might be the readier in the spring to pass farther, and during the winter could put all things needful in readiness for this business.' Cartier's brother-in-law, the Vicomte de Beaupré, was left in charge of Charlesbourg Royal, as the fort at Cape Rouge was called, after the second son of Francis I, Charles d'Orléans.

Cartier reached Hochelaga and proceeded to make an examination of the rapids of Lachine and Carillon at St. Anne, near Oka, at the mouth of the Ottawa. On inquiring of the Indians how many more rapids he had to pass 'to go to Saguenay,' Cartier was informed 'that there was but one more rapid to pass, and the distance was but a third farther than he had travelled from Hochelaga.' After distributing trinkets to the four hundred and more Indians who crowded about him at Hochelaga, Cartier returned to Charlesbourg Royal, where he passed the winter.

Two forts were built, one at the top of the cliff, and one at the foot of it, near the river St. Lawrence. The fort at the top of the cliff 'was very beautiful to behold and of great strength, having a great tower, two courts, a building 40 to 50 feet long, as well as divers chambers, an hall, kitchen, pantries and cellars, mills for grinding corn, an oven, and a well.' There was even a stove. The fort at the foot of the cliff also had a great tower of two stories, with two courts and good buildings.

Cartier having learned after his return from Hochelaga that 'a wonderful number of the people of the country had assembled at Stadacona, while the Indians who were accustomed to come to the forts with fish and fresh provisions

no longer did so, caused all things in the fortress to be set in good order'—with which words the narrative ends. We do not hear of Cartier again until June 1543, when, after passing the winter at Cape Rouge, on his way home to France he met Roberval in the harbour of St. John's, Newfoundland.

Whether Roberval, after Cartier had sailed from St. Malo, found his artillery, powder, and munitions at Honfleur as he expected, we do not know, but in any event he did not follow Cartier to the St. Lawrence during the summer of 1541. According to reports from the Spanish ambassador in France to the Emperor, Roberval encountered great difficulties in furnishing his ships with provisions and in finding suitable colonists for the St. Lawrence. He hoped, however, to be ready to sail by the middle of September.

As it would then be too late to go to Canada, the Spanish ambassador was of opinion that Roberval would sail towards Spain and the Indies. Charles soon learned in fact that Roberval had sent a message to Francis I that as it was then too late to go to Canada, 'Roberval might do the king other service which would be pleasing unto him, if he so desired.' Charles interpreted this to mean an attack on the coast of Spain, and charged the Cardinal of Toledo to send an immediate warning to the coast towns, which was done.

The Spanish ambassador in France urged the Emperor to attack Roberval at once, but the difficulty was to find him. In October he lay off St. Malo, but did not venture to land, although he sent ashore for flour and bread. It appeared that while he could not go to Canada, he dared not land in France on account of robberies he had committed, both upon Frenchmen and foreigners. With Roberval was also joined Pierre de Bidoux, one of the most notorious French pirates of the day.[1]

On a complaint being made to Henry VIII by some English merchants who had been robbed by Roberval of 600 quintals of iron and 400 morocco skins, 'on pretext that they were laden in Spain and therefore belonged to

[1] Simancas, *Estado*, leg. 373, fol. 42.

Spaniards,' Henry instructed Paget, his ambassador in France, to demand an immediate audience of the French king. Paget delivered to King Francis a letter from Marillac, the French ambassador in England:

'When Francis had read it, he spake very sore words against Roberval' [wrote Paget to Henry VIII], 'requiring me to signify unto your Majesty that he had done and would do all he could for the apprehension of Roberval, who had deceived him like a false traitor thief. For Roberval had promised to conquer the land of Canada, for which purpose the king delivered him ships with all other things for the furniture of the same, and gave him leave to take out of the prisons as many prisoners as he wished for the peopling of the said country, "but now," said Francis, "he leaveth this enterprise and lieth upon the coast of Brittany, robbing Englishmen and Frenchmen and all that come his way; but he shall be hanged by the neck if I catch him."'[1]

Whether this show of anger on the part of King Francis was real may be doubted. In all probability he did not wish to give any cause of complaint to King Henry, who was on the point of joining him in a war against Charles.

All we know is that a month later Roberval finally set sail for Canada from La Rochelle,

'in 3 tall ships furnished chiefly at the king's cost and having in his fleet 200 persons, as well men as women, and divers gentlemen of quality such as M. de Saint-Nectaire, M. de Lespinay, M. de Noirefontaine, de Frotté [a son of the President of the Parliament of Paris], La Brosse, de Miré, La Salle, Royeze, de Longueval, and de Villeneuve.'[2]

Clement Marot was to have charge of the fighting men, but it is doubtful if he actually sailed with Roberval.[3]

Contrary winds delayed them, but on June 8 Roberval reached St. John's, Newfoundland, where a few days later Cartier and his company cast anchor on their return from wintering at Cape Rouge above Quebec. Cartier informed

[1] R. H. Brodie, *Letters and Papers of Henry VIII*, vol. xvii. Nos. 120 and 166.

[2] Hakluyt, *op. cit.*, viii. 283.

[3] Brodie, *op. cit.*, xvi. No. 488, p. 234.

Roberval that with his small company he could not withstand the savages who went about daily to annoy him, and that this was the cause of his return. From Spanish sources we learn that thirty-five of Cartier's people had been killed by the Indians, and doubtless others had died of scurvy. Cartier had brought with him from Canada ten casks of gold, seven of silver, and seven quintals of 'pearls and rubies'; and on the following Sunday this ore was tried in a furnace and found to be good. Cartier furthermore commended the country to be very rich and fruitful.

Roberval commanded Cartier to return with him to Canada, but

'Cartier and his company, moved as it seemeth with ambition, because they would have all the glory of the discovery of those parts themselves, without taking their leaves, stole privily away the next night and departed home for Brittany.'

Roberval spent the greater part of June at St. John's 'composing a quarrel between some French fishermen and certain Portugals,' and taking on board wood and fresh water. He appears to have seized by force from the fishermen any provisions he required.

About the end of June he proceeded through the Strait of Belle Isle, and, making his way up the St. Lawrence, took up his quarters in Cartier's old buildings at Charlesbourg Royal, which Roberval renamed France-Roy, while to the river he gave the name of Francis Prime.

During the winter provisions ran short, scurvy broke out, and some fifty persons died. According to our only chronicler of these events, 'Roberval used very good justice, and punished every man according to his offence. One was hanged for theft, others were put in irons, and divers were whipped, both men and women. By this means they lived in quiet.'

On June 6, 1543, Roberval set off up the river with seventy men in eight boats towards the kingdom of Saguenay, said to be 'rich and wealthy in precious stones.' The fort was left in charge of de Royeze and thirty men.

On Thursday, June 14, Lespinay, La Brosse, Longueval, and Frotté returned and reported that one of the boats had upset, whereby Noirefontaine, Le Vasseur, and six others had been drowned. A few days later five more gentlemen reached France-Roy, with letters from Roberval to wait for him until July 22. Here the narrative unfortunately terminates.

On September 14 of the previous year, 1542, Roberval, after reaching France-Roy, had sent home Sainterre and Guinecourt in two vessels, 'to come back again unto him the next year furnished with victuals and other things, as it should please the king.' These two ships reached France safely, and on January 26, 1543, were ordered by Francis I to carry provisions to Roberval. It is probable they did so, and that Cartier sailed in one of them. He and Roberval were both back in France in the autumn of that year, 1543. War had again broken out between Francis and Charles in July of the previous year, 1542, and no one now spared a thought for the mysterious kingdom of Saguenay.

Cartier's diamonds had also proved a complete failure, although, according to a writer of the time, they enriched the French language with a new expression; for henceforth it became customary to describe anything which was perfectly worthless as 'a Canadian diamond.'

On September 18, 1544, Francis and Charles again made peace, but the former, who died in the following year, never again showed any interest in Canada and the kingdom of Saguenay. As for Charles, in the Instructions to the future Philip II in 1548, he wrote:

'Regarding the Indies, you will not cease to keep an eye upon the French, to make sure they have no intention of sending thither a fleet either openly or otherwise. In their previous attempts one has noticed, however, that they have not shown much tenacity, and if a rigorous opposition is maintained, they give way at once and withdraw.' [1]

[1] Ch. Weiss, *Papiers d'état du Cardinal de Granville*, iii. 296 (Paris, 1842), in the *Collection de documents inédits sur l'histoire de France*.

DUELLING AND MILITARISM

By A. FORBES SIEVEKING, F.S.A., F.R.Hist. Soc.

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It is not the object of this paper to suggest that there is any historical foundation for the association of a social or even a national practice of duelling with the more recent political manifestation, which is usually defined according to our individual political beliefs ; far less is it my intention to express any opinion of my own on the advantages or evils of a resort to arms as a means of settling the differences that arise between individuals or nations.

If we were to look in dictionaries or bibliographies for the exposition of my title you would find that ' Duelling ' is associated with ' Arms,' ' Blood Feuds,' ' Fencing,' ' Trial by Combat,' ' Trial by Ordeal,' ' Social Life,' ' Mediæval Law,' and ' War ' ; whilst ' Militarism ' connotes ' Armies ' and ' Armaments,' always in an evil sense—the abuse of the military power. At the same time ' Militarism ' has its admirers and its advocates. Thus Maximilian Harden can write as follows in the *Zukunft* :

' Militarism is a form of civilisation and a state of mind. It presses for ever stronger armaments, and accustoms even the ordinary citizen to the idea that weapons alone can settle a strife of peoples, and that any other tool is unworthy and useless. Heroism and military virtue can flourish without militarism, but it alone guarantees the constant readiness of all the limbs of the people's body for rapid transition from peace to war. It is because militarism favours the temptation to war, and must either extend its depredations far and wide, or be rooted out absolutely, that the war is to continue until militarism has been destroyed. That is what all the enemies of the German Empire say out loud, and what all neutral Powers say in whispers.' [1]

[1] *The Times*, October 27, 1916. It is significant that the first instance of the use of the word in the ' New English Dictionary ' from

My purpose in this paper is merely to indicate the close connection that has always existed between the practice of arms and their use in single combat of an authorised or unauthorised nature. The very habit of wearing arms implies the prevalence of private warfare; and we know that the armed borderers and feudal retainers furnished the bulk of the national armies of the Middle Ages. But from a much earlier period we find acts both of private and national warfare taking the formal shape of single combat in accordance with the judicial or social custom observed or at least recognised throughout mediæval Europe. In the same period the abuse of weapons prepared for national or self-defence, and the fantastic extravagances of the military art, under the cloak of chivalry, had called for repression at the hands of Church and State. But though feudalism and chivalry were extinguished, and warfare brought under the statutory discipline of the State, it was found impracticable to deal with individual turbulence or egotism on these lines. The result has been a refinement of the single combat in the form of a punctilious meeting which has survived to the present day in almost every country but our own.

Duelling, then, has passed through various stages or phases before attaining the sense in which it is most familiar to us, viz. the reparation of or satisfaction for outraged or wounded personal honour, for which the law provides no remedy, or one that is considered inadequate to wipe out the insult or offence.

In its earliest or representative stage, as amongst the ancient Greeks and Romans, the duel or 'certamen singulare' (except in a few cases of fights for spoil or plunder) was fought by certain picked champions chosen to represent

the *Daily Telegraph* of April 28, 1864 (in connection with Garibaldi) speaks of 'an army yet untainted with that disease of modern times known under the sinister name of Militarism,' and the second instance, in 1868, speaks of 'Prussian militarism,' but Millingen in his *History of Duels* (1841), has: 'Militarism is the child of Feudalism.'

a nation, tribe, or clan, and the result of the combat was held to decide the question of superiority between the larger hosts ranged in battle. Such were the innumerable contests between the heroes of the 'Iliad'—generally conducted under the supervision of the presiding deity of either side. There was no idea amongst the ancients that an insult demanding reparation could be conveyed by language, however strong; and the accusation of lying carried no stigma with it, but, on the contrary, would be regarded rather as a compliment by the Greeks, as indicating superior wit and cleverness on the part of the so-called liar. A cursory glance through the admirable article 'Monomachia' in d'Aremberg and Saglio's 'Dictionary of Antiquities' reveals to us that the very fabric of the 'Iliad' is woven out of duels of this nature. Monsieur Paul Gerard, indeed, is of opinion that the 'monomachia' forms the primordial and fundamental element of the 'Epopee.' The combats of Patroclus with Sarpedon and Hector, of Achilles with Hector, Diomedes and Glaucus (where challenges are accompanied with the strongest vituperation or coarsest insults), of Hector and Ajax, and Paris and Menelaus, are some of the leading 'certamina singularia' (as the Romans called them), which prove that the duel was familiar to the Greeks in the representative sense of chosen champions of their nation in battle.

It will be understood, of course, that the single combat was not a national custom peculiar to the Greeks and Romans, but is found in other contemporary civilisations, as in the familiar instances of the combats between David and Goliath, &c., preserved in Western and Eastern history alike.[1]

By the Romans, to accept a challenge to fight a private duel would have been regarded as an act of insanity or moral cowardice, and to leave the world in this way a far less satisfactory means of exit than suicide. The challenges

[1] Cf. *Corpus Juris Canonici* (1747), i. 389.

now and then issued to a Roman commander by the Gauls or some other Celtic tribe to fight a duel unconnected with a battle were always treated with contempt. So when we read, as we do in Plutarch, that Marcellus never declined a challenge to single combat, and never accepted without killing his challenger, we must take this as meaning that the combat was either fought in battle itself, or, as is described later on in the same Life, with the Gallic commander or king advancing in front of the army drawn up in battle array.[1]

The Puritan Jeremy Collier may be quoted on this point:

'This venturing All against Nothing puts me in mind of Mark Antony, who after he had lost the Battle at Actium and was penned up in *Alexandria* would needs send Augustus a Challenge. Cæsar's answer was, that if he was weary of living, there were other ways of Dispatch besides fighting him: and for his part he should not trouble himself to be his Executioner. Antony, I suppose, thought the return reasonable; and in a short time did his own business.'

The next phase of duelling was the judicial duel, or *Judicium Dei*, more familiar to us as the 'Wager of Battle' or 'Trial by Combat,' which remained in force for over ten centuries, and was universally adopted in Europe. This sprang out of the earlier Ordeal, of which it was really a development, and was based upon the superstitious idea that God was on the side of the conqueror—and that Might proved Right. Selden supported it on the ground that if any war was lawful, duelling was also. 'War is lawful,' he argued, 'since God is the only Judge between two that are supreme, such as two kings or princes. Now if a difference happened between two subjects, *and it cannot be decided by human testimony*, why may they not put it to God to judge between them by the permission of the Prince?'[2] And in Selden's question we find stated the

[1] *Plutarch's Lives*, 'Marcellus' (Clough's ed. Appendix ii. 239 and 244).
[2] Selden, *Table-Talk*, p. 147. *Cf.* F. Patetta, *Le Ordalie* (1890), *passim*.

whole theory and principle of the trial by combat. This differed from the *Ordalium*, or Ordeal, in that the latter was the trial of one person under accusation of a crime, whereas the former was to settle an action, dispute, or later on a point of honour between two individuals—the ordeal was between God and man ; the duel (or *Duorum Bellum*) was between man and man (with God as the Judge or Umpire).

It is useless to enlarge on the mediaeval formalities of making war which were still to some extent preserved in Selden's time. The latter was well aware that Plantagenet kings regarded themselves as pitted against their ' adversary of France ' to obtain satisfaction for some claim or injury. The nations were required to make these royal quarrels their own, and from this point of view, feudalism may be regarded as a notable incentive to national warfare. For in order to prepare against surprise, and also to provide the nucleus of a national levy, kings set on foot that profession of arms which is commonly, though not always justly, associated with the practice of duelling and the cult of militarism in later times.

In the earliest annals of the mediaeval period, we find the formal duel rife amongst the continental nations who had overthrown the Roman sway. Gibbon analyses the *Judicium Dei* (or judicial combat) at the beginning of the sixth century A.D. as sanctioned by the laws of the Franks, the Merovingians, the Burgundians (represented by Gundobald), the Alemanni, the Bavarians, and other barbarians (Ostrogoths, Visigoths, &c.).

The *Judicium Dei* was introduced into Gaul by the Burgundians, whose legislator Gundobald, in his original edict, published at Lyons A.D. 501, establishes and justifies the use of the judicial combat.

Three hundred years later Agobard, Bishop of Lyons, solicited Lewis the Pious to abolish the law of an Arian tyrant, and relates the conversation of Gundobald and Avitus.

'Is it not true,' the King asks the Bishop, 'that the event of national wars and combats is directed by the judgment of God, and that His providence awards the victory to the juster cause?'[1]

A greater thinker than this—Dante, five hundred years afterward asked and answered the same question almost in identical language in his 'De Monarchia.'[2] Upon one point, indeed, Dante is intensely modern—one might hazard the epithet British—in his curious 'sporting' parallel of the *Judicium Dei* with the pagan 'Palaestra.' Indeed, in this spirit of sportsmanship, Dante quoted with approval Cicero's commendation of Chrysippus, who expressly rules out 'tripping up' competitors, while he chooses for his illustrations the combats between Hercules and Antæus, and Atalantes and Hippomenes.

But to go back to our barbarian nationalists, we find ample proof in historical literature that the duel flourished exceedingly throughout the 'dark ages.'

'By such arguments' (as those of Gundobald), says Gibbon, 'the absurd and cruel practice of judicial duels, which had been peculiar to some tribes of Germany, was propagated and established in all the monarchies of Europe, from Sicily to the Baltic. At the end of ten centuries, the reign of legal violence was not totally extinguished; and the ineffectual censures of Saints, of Popes, and of Synods, may seem to prove that the influence of superstition is weakened by its unnatural alliance with reason and humanity. . . . The tribunals were stained with the blood, perhaps, of innocent and respectable citizens; the law, which, perhaps, now favours the rich, then yielded to the strong; and the old, the feeble, and the infirm were compelled either to renounce their fairest claims and possessions, to sustain the dangers of an unequal conflict, or to trust to the doubtful aid of a mercenary champion.'

In all this welter of bloody reprisals for public or private offences, one saving feature may be discerned by some—

[1] Gibbon, *Decline and Fall* (ed. Bury), iv. 127 and 128.
[2] F. J. Church's translation (1879), p. 63.

the fearlessness and personal bravery and endurance of combatants or champions who engaged in these encounters. It would be invidious to suggest that this quality of courage was more conspicuous in one nation than another, but it is noticeable that Englishmen have enjoyed an almost unenviable reputation in this respect. At least this seems to have been a national trait, and it has never needed to be maintained by social codes or dynastic devices. Similarly the temperament of Celtic nations has made them careless of the consequences of personal encounters which they have been always ready to provoke. It is curious to find that in a more barbarous age the courage of the tribesmen was fostered by a process of inoculation.

Jordanes, in his 'Gothic History,' A.D. 551, tells how the Huns

'are cruel to their children on the very day they are born. For they cut the cheeks of the males with a sword, so that before they receive the nourishment of milk they may learn to endure wounds. Hence they grow old beardless, and their young men are without comeliness, because a face furrowed by the sword spoils by its scars the natural beauty of a beard . . . their firm-set necks are ever erect in pride—though they live in the form of men, they have the cruelty of wild beasts.'

Those who remember how accurately the historian's remarks about the scars and furrows on the face bring before us the appearance of the members of the Duelling Corps of a German University will perhaps wonder whether the Huns had left the traditions and traces of their mutilating the cheeks of their offspring during their early excursions among the primitive inhabitants of Germany.[1]

Although in most countries a woman could only fight through her champion, the Germans allowed a woman to wage a judicial combat even with her husband. In Hans Talhofer's 'Kampfbuch' (1443), and again in Gerhard's

[1] Several eminent scholars whom the author has consulted on the subject are unable to throw any light on the devolution of the custom described by Jordanes. *Cf.* Hodgkin, *Italy*, i. 96.

'Tractatio de judicio duellico' (1735), we find described in great detail, and accompanied by engravings, the process of a duel of this sort as it was carried out in the district of Würzburg. This was a development of what was known as the *Kolbengericht*, or club-judgment, from the weapons employed. Here the man was placed up to the waist in a pit armed with a club or stick, the woman being also armed with a stick, to which was attached a stone.

Against the statement of H. C. Lea [1] (on the authority of laws and other historical documents) that the Anglo-Saxons knew not the duel, we can scarcely rely on the interesting story told by William of Malmesbury of King Edgar's challenge to Kenneth of Scotland, who had made wounding reference to the King's insignificance.[2]

Such an incident might have happened in any country, whether its laws and customs recognised the judicial combat as a regular institution or not; but with the coming of the Normans we know that the 'battle' plays a very notable part in judicial procedure. Hitherto in England and in Teutonic and Scandinavian countries generally the solidarity of the kindred, expressed by the judicial 'wergild' or compensation for bloodshed, exercised a wholesome restraint on the prevalent tribal custom of blood-vengeance as a justification for blood-feuds.[3] But long before the Conquest the tribal system had become disintegrated and a feudal system was taking its place.

Students of the early French chronicles will recall how Wace, the Anglo-Norman Jongleur, in the reign of Henry II, in his 'Roman de Rou,' that worthy comment on the Bayeux tapestry, sings the historic field of Senlac or Hastings. How Hugues Maignot (to cite Thierry's version) came in William the Norman's name to call upon Harold to resign his royalty, or to refer it to the Pope's

[1] *Superstition and Force* (1892), Chap. ii. p. 114, 'Origin of the Judicial Duel.'

[2] Sharon Turner, *Hist. of Anglo-Saxons*, ii. 269.

[3] B. Phillpotts, *Kindred and Clan*, p. 6.

arbitration, or to let it be determined by the issue of a single combat.

Had this combat been waged, we know from Mr. George Neilson's valuable 'Trial by Combat' the exact procedure that would have been followed out between the two champions.

The third phase of duelling may be called the *Chivalrous* type of single combat, dependent as it was upon that curious spiritual blend of religious mysticism, of love or gallantry towards women, and of that dawning sense of duty for the strong to protect the weak and of the rise of humanity towards our fellow-creatures. We know that chivalry reached maturity in the later Middle Ages as one of the products of the Crusades, and may be said to have culminated in the civilisation of the Renaissance. Its alleged observance in an earlier period, which has been widely credited, may perhaps be traced to the late fourteenth-century forgery attributed to Ingulph, Abbot of Croyland. Some form of tournament may certainly be traced back to a comparatively early date; but the point that is connected with this phase of the chivalrous duel is found in the details regulating its procedure, even for a judicial purpose.

It is perhaps not surprising, in view of the recognition or regularisation of the duel by the State in those early times, that private and unauthorised encounters should have been viewed with disfavour in official quarters. In fact, no sooner is this personal duel well established, than it is prohibited.[1] Many instances could be given of such prohibitions from the fifteenth century onwards and various reasons might be suggested for this attitude. The waste of life and national strength must have been a matter of concern to ministers, while the habit of carrying and using arms was not viewed with favour by a government unfortified with a standing army or police force.

[1] The intervention of the Crown in the duel of the Dukes of Hereford and Norfolk (1398) is well known.

The vogue of the private duel in Germany can be traced back to the year 1500. It was practised in all ranks of society, from princes to peasants. By the middle of the sixteenth century the duel had become not a custom merely, but a compulsory obligation which reached its culminating point in the seventeenth century. The habit became a rage, a mania, a disease—and men slew one another for the lust of slaughter. In Spain, Italy, and France the Church pronounced against it in Councils, and kings condemned it in edicts, but quite in vain. We have only to consult the pages of Brantôme's 'Discours sur les Duels' to see the point which the epidemic had reached amongst the Latin nations of Europe.

Francis I not only encouraged it throughout his dominions, but himself set the example by challenging to a personal duel the Emperor Charles V, in order to 'defend his honour with his body and his life.'

The tournament in Tudor days had become only a spectacular survival, and the knight was superseded by the strutting swashbuckler, who ushers in the last phase of the duel; this might be called the Egoistic stage, being determined not by the law and custom of the land, but by the irresponsible interpretation by each individual of the code of honour which he chose to apply to the solution of his own particular case. Duelling became a mere exhibition or assertion of personal vanity; and a breach of the smallest ceremony or punctilio was an excuse for drawing the sword which every gentleman then wore.

This was the practice which James I denounced in the edict penned by his own hand in 1613 as 'that saucie Paradox which gives liberty to gentlemen with their owne Swordes to revenge wrongs done to themselves,' and of which his Attorney-General, Sir Francis Bacon, declared:

'for a difference to be made in case of killing and destroying man upon a fore-thought purposes between foul and fair, and as it were between single murder and vied murder, it is but a

monstrous child of this latter age, and there is no shadow of it in any law divine or human.' [1]

To this period belong the duels, which are so difficult to distinguish from street-brawls, and cold-blooded assassinations; for these frays lacked the deliberate arrangement, ceremony, and intentional fair play of the duel. My friend, Mr. Hubert Hall, informs me that the Records of Ancient Indictments, Assize and Sessions Records are full of such cases right up to the nineteenth century; and our President, Professor Firth, has been kind enough to furnish me with a typical case in January 1659, when Francis Wortley, a gentleman of the Middle Temple, was slain by the Earl of Chesterfield at Kensington, because the latter was dissatisfied with a mare which he had insisted on buying without any guarantee whatsoever. It may be noted that one of the Protector's ordinances declared duelling 'unpleasing to God, unbecoming Christians, and contrary to all good order and government.' A person sending a challenge was to be bound over to keep the peace for six months, and a duellist who killed his opponent was to be tried for murder.[2]

The repression of duelling was nowhere more earnestly attempted than in France under such strong and wise ministers as Sully, Richelieu, and Mazarin.

We know, however, that Richelieu failed to put an end to duels, in spite of the severe execution of his edicts. The ostentatious execution of certain offenders in 1627 caused an immense sensation; but this was an isolated fact. Duels continued from this period to the end of the Fronde with the same intensity as under the reign of Henry IV. They only diminished and disappeared gradually towards the latter years of Mazarin's government, although he hardly took any strong measures against them. The

[1] See *Worke for Cutlers* (Camb. Univ. Press, 1904) for facsimile of proclamation (Soc. of Antiq.), and pp. 30 and 83–85.

[2] Prof. C. H. Firth's *Oliver Cromwell* (Putnam Sons, 1900), p. 350. See also his 'A Restoration Duel,' *Scottish Hist. Review*, Oct. 1905.

fashion, or rather the change of manners, alone effected what the royal will had been powerless to realise.

Every year to the end of the reign of Louis XIII we read of a number of sensational duels, all unpunished, although several took place in the King's own palace. The Sovereign closed his eyes. Under the Regency of Anne of Austria 930 gentlemen were notoriously killed in duels, without reckoning those who thus perished, but whose deaths were officially attributed to other causes. 'Now the duels of those days in no way resemble those of our own day. Much more frivolous in their pretexts, they were much more serious in their results. They were not the minutely regulated ceremonies where every precaution is taken to equalise the chances or to avoid an "accident"; they were real battles, struggles of barbarians with their diabolic fury, their disloyal ruses, their implacable cruelty. The champion who falls is always "fairly slain" whatever happens; a Sieur de Boësse, a brave but cruel gentleman, had killed seventeen persons in duels, and a Chevalier d'Audrieux seventy-two.'[1]

Through all generations duelling has been a matter of class and caste; and one of the still vexed questions in connection with it was always whether a challenge could be accepted when it proceeded from a man of lower rank than the person challenged. In fact, 'you punctiliously proved yourself to be a man of blood by shedding another man's.' Jeremy Collier, the author of the 'Short View of the Profaneness of the English Stage,' as indicated by John Dryden's plays, sharpens his satire upon the stone that it was not becoming for gentlemen to manage their quarrels like other people. 'Their revenges must be particular as well as the rest of their breeding'—'so that, if Butchers had but the manners to go to "Sharps" (*i.e.* swords) Gentlemen would be contented with a rubber at cuffs'; and he further makes the shrewd observation that the 'custom of duels puts gentlemen upon their good

[1] Lavisse, *Hist.*, V. iv. 357.

behaviour.' Moreover, he observes that to give the lie was not counted so brutal an affront till Charles V happened to say he was no gentleman who would take it; and he asks, 'What has England to do with Germany?'[1]

Brantôme has been called the Justinian of the Duelling Digest—and it will be interesting to consider some of the points of his code, which is not of a high moral stamp. He cautions duellists against fighting without swords, as was done sometimes in Italy in the contests called 'Mazza' (or Mace). His reasons are, first, that it is depriving the public of a fine spectacle; and, secondly, it exposes the survivor to the risk of being tried or punished as a murderer. An unbeliever should not be chosen as a second, because it is not right that an infidel should see Christian blood shed. The combatants ought to be carefully searched, to ascertain that they bore no 'drogueries, sorceleries ou maléfices'—but relics of Notre Dame de Lorette were allowed to be worn. Courtesy was not to be spoken of—it was out of place for any one who entered the 'champ clos,' and who was prepared to conquer or die. The victim was at the victor's disposal, to be dragged through the camp, hanged, burnt, or kept prisoner: Achilles dragging Hector at the tail of his chariot was the classic example to be followed.

On the other hand, every gallant knight must uphold a lady's honour, whether she had forfeited it or not. A soldier might fight his captain—provided the former has had two years' service and demands to leave his company; but others disagree with this view.[2] If a father accuses his son of dishonourable conduct, the son might challenge his father to a duel. All this etiquette was handed down to later generations of fine gentlemen who indulged their instinct of 'wild men' with boundless effrontery.

[1] *Essays upon Several Moral Subjects*, 7th ed., 1732.

[2] Basnage, *De Singulari Certamine*, ch. xxvii.; A. Alciatus, *De Singulari Certamine . . . in materia Duelli* (1543, Lugd. Giunta); La Béraudière, *Du Combat de Seul à Seul* (pt. ii. ch. vii. p. 16) is of Brantôme's opinion.

The Comte de Châtauvillard[1] was the first to carry out the idea of codifying laws of the duel (1836), and he prefaces his attempt with this justification :

'If the code of the duel is outside the laws, if there can be no code other than that sanctioned by the law, nevertheless let us not hesitate to give the name to the rôles imposed by honour, for honour is no less sacred than the laws of the State.'

De Châtauvillard's Code was backed by all the authority of the army, from marshals down to captains, as the imposing list of military signatories shows, but, unfortunately, it had a formidable civilian rival in an unpublished code of honour and custom, and here again we see that a military caste had not a monopoly of this institution.

'Never,' writes M. Alfred Rambaud,[2] was there so much duelling as in the first years of the Restoration (1814–1848) ; officers of the old Imperial Guard and of the new Royal Guard "went out" every morning. The race of professional duellists reappeared. Parliamentary duels, as a consequence of discussion in the Chambers, were frequent (such as that of General Foy and M. de Corday), usually determined with pistols.'

In some instances an outbreak of duelling would seem to be one of the results of war, perhaps by way of reflex action ; or of a great battle, for after Waterloo we observe recorded in such books as Raikes's 'Journal' the attack of a fresh epidemic of duelling. This may be partially accounted for by the change of dynasty in the restoration of the Bourbons, but I am more inclined to attribute it to the waves of unrest and excitement set in motion by the Napoleonic wars, which could only subside by degrees.

Gronow's gossiping but reliable volumes are crowded with duelling stories, the scene being mostly laid in France, after the Restoration of the Bourbons.[3] The English

[1] *Essai sur le Duel*, Paris, 8vo, 1836 (full translation into German by C. von L. Karlsruhe, 1888, fifty years after its promulgation).

[2] *Histoire de la Civilisation Contemporaine de France.*

[3] *Recollections and Anecdotes*, 1728–73.

officers were as keen to show their metal as the French officers of Napoleon's army and the Bourbonists of the *Garde du Corps*. Then there were the Russian, Prussian, and Austrian officers, the latter being nearly always the aggressors in their duels with the French. At Tortoni's Café on the Boulevard a room was set apart for these fire-eaters to cool themselves with ices and champagne after their meetings. Gronow speaks of an Irishman in the *Garde du Corps* who was said to have killed nine opponents in one year.

In Germany, if the duel figures less prominently in the political and social annals of the seventeenth and eighteenth centuries, it is nevertheless associated with a very definite state policy which is responsible for the regularisation of these combats in the eighteenth century, and perhaps also for their perpetuation in modern times.

In September 1670 the Kurfürst of Mainz laid before the Diet an imperial decree of 1668 that every one was to refrain from duelling throughout the Holy Roman Empire. The authorities were to arrest all who took part in 'Balgereien' or frays; and innkeepers and fathers of families, authorities at universities and academies were to give immediate notice of such occurrences, and all sorts of penalties were to be imposed; but the customs and prejudices of the time prevented the decree from being much more than a dead letter. As Frederick the Great shrewdly remarked, the edicts against duelling were well-intentioned, but the much older prejudices were stronger than the law.

In a Cabinet order of May 21, 1791, on Courts of Honour, King Frederick William II expressed his opinion that such courts would probably only lead to an extension of duelling, and would have many prejudicial effects upon the *esprit de corps* both in the army and among civilians of the nobility. But in 1803, Frederick William III imposed these Courts of Honour upon the officer corps of the standing army (August 3, 1808) and in 1816 upon the militia. Frederick William IV in 1843 extended the powers of the

Courts of Honour by giving them full control over the duel throughout its procedure, in the event of failure to compose the quarrel. This order was annulled by the German Emperor, William the First, in 1874, 'in the confidence that noble manners and good tone will be maintained in the officers' corps'; but an officer who was challenged was still required to give notice to the 'Ehrenrath,' or Council of Honour, whose duty it became to attempt a reconciliation, and if this failed, to see that the conditions of the duel were in no way out of proportion to the gravity of the incident. The President, or a member of the Honour Council, had to be present as a witness to see that the duel was conducted according to the 'Standes-Sitte,' or class custom. Proceedings in the Court of Honour were only to be taken against officers engaging in a duel when a breach of the 'Standes-ehre' (or class-honour) was committed by either party. This cautious attitude of the army authorities towards duelling was further complicated by the ambiguous and oft-quoted declaration of the Kaiser, in concluding his Imperial Rescript: 'An officer who is capable of injuring a comrade wantonly I will as little tolerate in my army as an officer who does not know how to protect his honour.'

Should an officer be insulted by a civilian, this had to be forthwith brought before the Council of Honour. If an officer resorted to arms against a civilian's insult or ill-treatment, he was bound to draw blood to satisfy his militaristic honour, but he easily procured pardon, and he would be either acquitted or receive only nominal punishment from the Court Martial sitting on the case.[1]

The opinion that the duel keeps alive personal courage is largely held by the Germans, and on this point my friend Professor Mahaffy, Provost of Trinity College, Dublin, writes to me that the present German Emperor once argued with him 'that he thought it was worth while keeping up duelling to promote individual courage, and in cases

[1] *Vide* Professor Sharpe, 'The Making of a Gentleman in Germany,' *Contemp. Review*, October 1916.

where, a lady being concerned, law suits are odious and often unjust.'[1]

Professor Paulsen, in his well-known work on 'The German Universities,' gives a qualified approval of the 'Mensur'[2] on the ground that fencing is a form of physical exercise—and the Schläger-duel is also

'a practice and proof of courage, not, indeed, of the highest kind, but nevertheless of a certain control of the will over the physical body—and also that it assists in giving a person a position among his own kind, which depends upon personal merit, and not upon the size of his purse. The rapier puts all upon an equal footing.'[3]

However, so far as our country was concerned, the end of duelling was not far off. Lord Campbell, writing not much more than half a century ago,[4] could remember the time when almost all the parliamentary leaders on both sides had 'been out'; but he could not call to mind a single surviving leader who had exchanged balls as well as words with a rival.

We used to be told that without duelling there would be intolerable scurrility in debate, but no such consequence has followed its abolition. This experience would seem to dispose of De Quincey's contention that the absence of duelling amongst the Greeks and Romans led to the extreme licence allowed in speech both in the Agora and Forum and in private life.[5]

The adjustment of a quarrel by a declaration that certain offensive expressions had been used in a Pickwickian sense was suggested to Charles Dickens by a scene in the House of Commons in 1823, when Brougham accused Canning of 'exhibiting the most incredible specimen of monstrous truckling for the purpose of obtaining office that the whole

[1] *Letter to A. F. S.*, December 10, 1916.

[2] So called from the 'Measurement' of the distance between the combatants.

[3] Fr. Paulsen, *The German Universities*, trans. E. D. Perry, 1895, p. 377; and Sir Lees Knowles, *A Day with Corps-Students in Germany*.

[4] 'Life of Lord Brougham,' in *Lives of the Chancellors*, iv. 343.

[5] See De Quincey's article on 'Casuistry.'

history of political tergiversation could furnish '—and was interrupted by Mr. Secretary Canning, ' I rise to say that that is false.' To avoid a duel a motion was made that both the honourable members should be committed to the custody of the Sergeant-at-Arms ; whereupon Brougham explained at some length that he meant the expression to be understood in a parliamentary and not in a personal or party sense.

In the session of June 1824 the House devised a new expedient for preventing duels among the members by treating every outrage which might provoke a challenge as proof of insanity.

In the very first year of Queen Victoria's reign a statute [1] was enacted to amend Lord Lansdowne's Act,[2] which had repealed the Black Act [3] and Lord Ellenborough's Act [4] extending it. The third section of the Act of 1838 made it a felony to shoot at any person, or to attempt to discharge any kind of loaded arms, with intent to commit a crime of murder, the accused upon conviction to be transported for life or for any term not less than fifty years.

In the House of Lords (transformed into the Lord High Steward's Court) on February 18, 1841, took place the mock trial of the Earl of Cardigan for firing with a loaded pistol at Harvey Garnett Phipps Tucket (much hinged upon this name) with intent to murder him, also with intent to maim and disable him, also with intent to do him some grievous bodily harm. The Attorney-General, in his speech for the prosecution, stated that it was sixty-four years (*i.e.* 1777) since any proceedings of this sort had taken place, and amongst the statutes cited were the 5 Henry IV, c. 5, and the Coventry Act (22 & 23 Charles II), whereby any person lying in wait for and wounding with intent to maim or to disfigure was guilty of felony, without benefit of clergy.

Fortunately there was a woman on the throne, and a Bentham in the study, to sweep the cobwebs and the dust

[1] 1 & 2 Vict., c. 85.
[2] 9 Geo. I, c. 2.
[3] 9 Geo. IV, c. 21.
[4] 43 Geo. III, c. 58.

of ages from this full-bottomed big-wiggery; and in 1843, after royal and public attention had been drawn to the question by a duel at Camden Town on July 1, in which Colonel Fawcett was shot by his brother-in-law, Lieutenant Munro, who had gone out after great provocation—an influential Anti-duelling Association was formed, greatly influenced by Bentham's powerful public and private reasoning.[1] At the same time the Duke of Wellington, acting on Prince Albert's suggestion, submitted to Queen Victoria a General Order for the suppression of duelling in the army and navy, and the Articles of War were amended accordingly.

The time at my disposal has not permitted me to make any mention of laws or customs of the Scandinavian nations or of the great part which the duel plays in the national life of Italy and Spain, whilst the history of duelling in Ireland is of political as well as social interest. Finally, the military aspect of the subject could be illustrated from the procedure of Courts Martial and other departmental records.[2]

If time had permitted, I should also have liked to cite many British and foreign writers whose opinions with regard to the customs of duelling are of considerable interest. Amongst the former Lord Herbert of Cherbury, Smollett, Dr. Johnson, Grattan, O'Connell, and Tom Moore have many instructive remarks to offer on this subject, but they do not take us very far in an attempt to trace some connection between duelling and militarism. Nor was it to be expected that they should do so: for, in the first place, standing armies and martial law, which is necessary for the maintenance of discipline, have always been regarded

[1] Bentham's influence can be perhaps even better measured from his private correspondence (e.g. with the Duke of Wellington) than from his public utterances (see Index to Bowring's edition of his works).

[2] For this subject see especially Capt. H. James's *Regimental Companion* and *Collection of Charges*, &c., extracted from the records of the Judge Advocate-General's Office (1820), and *The Letters of Queen Victoria*, edited by A. C. Benson and Lord Esher, i. 450 and 485.

as an extraordinary expedient outside the pale of the ancient constitution of the realm and subject to the control of the civil power. In the second place, the more familiar aspects of militarism are found in the period since the Franco-German War of 1870. Under our insular and democratic form of government the duel has only been a temporary manifestation of the passionate weakness of our human nature, now almost incredible to us; whilst militarism or any other system that denotes the political or social domination of a military caste, or even the cult of warlike ideals, offensive or defensive, is equally repugnant to a nation which for good or evil has clung to the laws and customs and methods of its forefathers.

Appendix

Professor Bury has been kind enough to furnish me with the following valuable notes on Roman challenges (*ante*, pp. 167–8):

'The instances which we have in Roman history like the Spaniard's challenge which Scipio took up at Intercatia, or that of the Goth Ularis which the Persian Artabazes took up in the Ostrogothic war of Justinian, are instances of Celtiberian and Germanic customs. (I do not understand the case of Octavian, Cæsar and Antony.) There is one case that you should be careful about, the alleged *Zweikampf* of the Roman generals Aetius and Boniface in the fifth century. Either it is a legend, or else, as I have suggested, they fought hand to hand in a battle—there was certainly a battle between the troops. You will see something about this in an Appendix to my edition of Gibbon (vol. iii.).

'The Leges Longobardorum seem to be the most interesting of the Germanic laws, as to *Camfio* as one of the legal ways of settling disputes.' (*Letter to A. F. S.*, Dec. 8, 1916.)

THE HISTORICAL MANUSCRIPTS AT LAMBETH.

By the Rev. CLAUDE JENKINS, M.A., F.S.A., Librarian and Keeper of the Records of Lambeth Palace.

WHEN Peter the Great was wearied with London and Londoners, and even receiving visits of 'the thin gentleman' in 'a modest looking coach' to his lodgings in Norfolk Street, Strand, and returning them through the back door of Kensington House had ceased to amuse, he was induced to make an expedition from Deptford to Lambeth where, we are told, 'nothing in England astonished him so much as the Archiepiscopal library . . . he declared that he had never imagined that there were so many printed volumes in the world.'[1] One would like to know if they displayed to him among the MSS. that Elizabethan atlas (463) with its wonderful map of the New World and its mariner's compass in the wooden cover—an atlas made, as it shows, in days when Africa was better known than Scotland and Canada included what we now know as the United States; or Sir Henry Maynwaring's treatise on nautical terms (91, *cf.* 268), parent of many similar works. They form at any rate part of the original collection which the Archbishops hold in trust 'to ye service of God and his Church, of the Kings and Commonwealth of this Realme, and particularly of the Archbishops of Canterbury,' in the terms of Archbishop Abbott's will, 'as they will answere unto me, and my predecessor [Richard Bancroft] in that fearefull day of God.' Those treasures thus preserved have been added to, under sanctions less tremendous, not only by the munificence of Archbishops such as Sheldon and Tenison, Secker and Manners-Sutton, but also by the gifts of readers: or if Lambeth Library is the only one in London, public

[1] Macaulay, *Hist. Eng.*, ed. Firth, vi. 2790, 2792.

or private, of which it can be said that access has been given to students for over three hundred years, it may be allowed to the enthusiasm of one of the youngest as well as the latest of its Keepers to venture the opinion that it has gained thereby not less than it has given. It was a reader, John Selden, who saved it in the days of the Commonwealth: it was yet other readers, William Dugdale, and in the following century Richard Trevor, Bishop of Durham, who recovered for it valuable MSS. which, owing to the change of the times, could no longer be regained, as had been done in earlier days, by the weapons of the major excommunication and that godly discipline as to which some of my brother librarians probably agree with the Prayer Book that its restoration is much to be wished. And while there are many other readers down to the present time to whom the Library is indebted not only for books but even for MSS., there have been few I believe, who share with King James I the ignominy of having abused their privilege.

It would be easy for me to speak of the collection as a whole in general terms: but in attempting to deal with a particular portion of it, and to render an account of the value and interest of that section, one soon becomes aware that if the method of Induction be, as we learnt in the Schools, the more persuasive, it is also far the more laborious; and though I shall not weary myself, I am greatly afraid that I may weary you.

And what is an historical MS.? One would rather leave the question unanswered where equivocation is so easy, though I think that one of my predecessors went perhaps too far in extending hospitality to a skeleton, and another in placing among the *Rariora* a phrenological head wrapped in a pair of buckskin breeches. The librarian taking humanity in more than one aspect for his province recognizes perforce that the flotsam and jetsam of one generation may become by survival precious relics full of instruction for another, as he takes from a book, to which it has served as a

marker for perhaps three hundred years, the bill of an undergraduate of Trinity College, Cambridge, in 1572, in the writing of John Whitgift, or happens in a dusty corner of an old tower upon the accounts rendered by Messrs. Twining at the sign of the Golden Lion in Devereux Court, near the Temple, for the fortnightly pound of tea, supplied at a cost of one pound sterling, to the family of Archbishop Potter when George II was king. We shall deny the title, I suppose, to this volume of Horae (474) with its significant erasures in two of the prayers and that obliterated scrawl at the end, though a reagent has just disclosed to Dr. M. R. James that it is the book of prayers of Richard III, and the scrawl reads: 'In ye honour of god and sainte Edmonde Pray for Margaret Richmond.' And we shall allow it to these quaintly beautiful Gospels of MacDurnan which King Athelstan gave to the Church of Christ of Canterbury and Archbishop Parker to Lambeth, because a careful monk has filled blank leaves with charters in Saxon and in Latin recording among other notable matters that Canute the King gave to the said church 'an arm of St. Bartholomew the Apostle with a great pall, the golden crown from his head, and the port of Sandwich.' And equally of course we shall give the name to this Puritan petition printed in 1609 but annotated by the English Solomon with his own hand: 'We are not heir subject to the municipall lawis of denmark': 'Quhy will ye followe the manners of straingers and not obeye your owin churche, in quhose bosome ye waire bredde,' and other observations of a like kind.

Shall we say that an historical MS. is one dealing with events and persons and institutions of the past? Here is an 'Alexandreis' (471), here the correspondence of Alexander the Great with the King of the Brahmans (353, *cf.* 499), a letter of St. Helena to Constantine (373), of Pope Eleutherius to King Lucius (157), of Presbyter Johannes Rex regum to Emanuel Emperor of Constantinople (371),

to say nothing of pasquils on the death of Charles of Lorraine (426), the report of the *post mortem* autopsy on Charles II (1036) ὃς νῦν ἐν τοῖς ἁγίοις, says the record—somewhat unfamiliar company one would suppose for all concerned. Here again is the recipe 'to make the cake that the Queen loves' (928), whether the Queen be Mary II or Anne; here three large Privy Council boxes full of daily bulletins of the health of George III.

In days when research was less exacting because materials were less accessible and yet somehow great principles did emerge—else why do we still appeal to Freeman and Stubbs, I was going to say to Grotius?—Oxford found it possible to combine in one school the study of Law and History. One may regret the modern divorce, the results of which are patent, at least to the historian (who has also lost something though he does not always admit it), but it is an accomplished fact. I pass over therefore Decretals, of which after all the historical basis has ceased to be the most important feature, Constitutions Provincial and other, copies of Statutes, the great copies of Bracton (92–93), a treatise on the Salic Law (262), and many volumes known as Registrum Brevium, with a plea, however, for Papal Bulls (643–4, *cf.* 99, 171), the Leges Longobardorum (39), and a work on the ecclesiastical discipline of the Island of Jersey (470, *cf.* 744, 929). And as one who learnt most in ancient history from a tutor who is now a Professor of Modern History, and who, instead of discussing his pupil's pedestrian essays, spent the time saved in displaying and talking about the coins of the period, I am going to add further as an historical MS. a list of coins said to have belonged to Archbishop Laud (225), and one or two similar compilations (254–5), with the reflexion that after all the oldest bit of history that one can see at Lambeth is the little series of coins of the Saxon successors of St. Augustine.

But let us to the chroniclers and annalists and chronographers. You will expect, and you will find, the names

of Henry of Huntingdon, Geoffrey of Monmouth, William of Malmesbury, Higden, 'Matthew of Westminster,' or works more or less closely related to these worthies, whom I mention of course subject to any errors and defects that your erudition may have discovered in them. If you do not know them before, and still more if you do, you will delight in the three splendid folios of John of Tynemouth's 'Historia Aurea' (10, 11, 12), in the great 'Chronicle of St. Albans' (6), with its account of King Bellyng, after whom is named Billingsgate, and its pictures of the repulse of the Saxons by Englishmen in mediaeval armour adorned with the red cross of St. George, to say nothing of the dragons in the prophecies of Merlin. I pass over Martinus Polonus (*e.g.* 22, 24, 340, 371), Ivo of Chartres (*e.g.* 355, 440) mixed up with Radulphus de Diceto and various strange jumbles of prophecy and history (*cf.* 8, 527). Bekynton's Letters (211) may attract you or Rudborne's Chronicle (183), or Harpsfield's History (53–54), or Collections of Letters, *e.g.* 221, 245, 281, 482, 645, 646, 1029, 1030, and many others in the Tenison series. I should like to introduce you to this 'Chronicon parvum Londinense' in 12mo (878), or the stately tome of Lydgate's *Book of Bochas* (256), and the deeply interesting copy of Florence of Worcester (42) masquerading as Marianus Scotus. To these we will add Giraldus Cambrensis (*e.g.* 236, 248, 263, 371, 622), premising that we do not regard him as a genuine Welshman or all his theories as history. And there is much that is curious to be learnt from Parker's 'De Antiquitate Britannicæ Ecclesiæ' (959), 'codex impressus,' as the catalogue calls it, an anachronistic example of 'grangerising.' I will spare you Annales (*e.g.* 66, 1106), Flores Historiarum (138, 188, 1106), and Chronographies (*e.g.* 419, 440, 448, 462) with a bare mention, though in one 'jumble-volume' (342) you may find the 'Sompnium Scipionis' at the beginning, a 'Cronica locorum habitabilium et temporum' in the middle, the 'Gesta Regis Alexandri' at the end, and as

part of the binding a deed about a Preceptory of the Knights Templars. You will expect to find MSS. of the 'Brut' Chronicle, though scarcely so many, nor that magnificent one (306) with its copious notes at the beginning in a hand which I take to be John Stow's—that at least is historical!

And side by side with copies of Caxton's Chronicle (*e.g.* 84, 264, 331, 491) is the famous 'Dictes and Sayings,' historical in its still more famous picture of Edward IV and Edward V (265).

Of Lives of Saints there are singularly few: St. Modevenna (99), St. Thomas and St. Edmund (135, *cf.* also 136, 138), St. Dunstan (159)—I take them in numerical order—St. Edward the Martyr, (149), the Confessor (138, 331, 761, *cf.* 412), St. Bernard (163, *cf.* 178), Abbo's Life of St. Edmund the King (362), the Life and Miracles of St. Jerome (432) and Eadmer's Anselm (159, 163, 410) represent almost everything that is of importance. The judicious may gain something more from miscellanies (*e.g.* 12, 94, 159, 173).

Cartularies are still more conspicuously absent, for the British Museum and other collections hold much that might be expected at Lambeth. The Cartulary of Dover Priory (241), some Reading documents (371), some of Launceston (719) and of Hailes (854), extracts as to Dunstable (277), almost make up the list with two volumes of Charters, etc. (321, 1212), the latter of which at least deserves to be edited. But we can fill out our catalogue with some kindred documents of very considerable value. Reference has already been made to the charters in the MacDurnan Gospels, and I may mention as a possible source of information the splendid Obit book of Christ Church, Canterbury (20), though it is not unique. But Rebot's History of the Carmelites (192), which belonged to Bale, as did a 'Bulla prolixissima' for them (61), the volumes of the Consuetudinary of Peterborough (198, 198*b*), Carthusian Acta (413), and volumes dealing in whole or part with canons regular of St. Augustine (357), the Abbey of St. Augustine (419, 1213),

the Order of St. John of Jerusalem (177), the Dominicans of 'Arclowe' (534), the Holy Cross, Edinburgh (440), the Order for celebrating the Exequies of Priests (420), the 'Historia Eliensis' (448), and perhaps I may add the 'Letters of Prior Honorius' (415) and two collections of Canterbury Accounts (242–3) of the thirteenth and fourteenth centuries, are all worth, and some have received, the attention of students. You may care to turn over the documents as to Canterbury Hall at Oxford and a certain John Wiclif (104); and among records of still more domestic interest may be included those relating to Trinity Hospital, Croydon (275, *cf.* 954), Melford Hospital, Suffolk (671), Sevenoaks Corporation and School (672), Guildford School (727*a*), Witney School in com. Oxon (942), the Elizabethan (675) and Laudian (728) Statutes for Canterbury with the extraordinarily interesting draft scheme of Statutes for Cathedrals of the New Foundation (276), made according to Queen Elizabeth's Commission to Archbishop Parker in June 1562, which certainly ought to be published.

I hope I shall not be trying your patience too far if I ask you to stray with me for a moment into a field which lies beside the beaten track. We are given to understand that the leisure hours of those statesmen who are making history in our day have usually been devoted to researches in practical chemistry, or to experiments in applied physics on the relative immobility of small objects resting upon a base pyramidal in shape, or to even higher branches of the art of ballistics which are associated with one of the northern universities. We at Lambeth have reason to be glad that the learned leisure of the great Burghley was given to the not less elusive but perhaps more permanently valuable pursuits of genealogy and heraldry. I will not stay to examine exactly how many volumes we owe to his enthusiasm—it is certainly not less than fifteen, and to these we can add many sections of the great collection of George Carew, Earl of Totnes, a collection the mere summary of

which fills six volumes of the Calendar of State Papers.[1] If we have been compelled sometimes to remind ourselves rather strenuously in the past that there is no necessary disjunction between those pursuits and the attempt to write true history, we shall do well to remember that not all these genealogies are spurious. Moreover, if some of the heraldic MSS. did not escape the censure of Carew (*e.g.* as to the well-known one—515—of those 'slayne in the time of variance betwene the howses of Lancaster and Yorke,' he says 'This booke is fallse in many of there Armes'), others to the practised eye yield facts of considerable historical importance, even though we may not believe with the sixteenth-century student who blazoned for Archbishop Whitgift the arms of his predecessors that the Blessed Augustine, Apostle of the English, bore arms 'Sable a Cross and in ye 2nd quarter a Lilly Ar^{t}. in ye 1st Quarter the See of Canterbury.' After all he is a poor historical

[1] For the benefit of historical students it may be worth while to point out that these volumes do not present a calendar of all the MSS. that once belonged to Carew. In investigating the history of the Burghley MSS., a fascinating but provoking study, I was led to consider how far the conventional description of Lambeth MSS. 596–638 as Codices Carewani was exhaustive. That there are some in Bodley that belonged to Carew is well known, but then also I have seen others in the British Museum which were probably his, unless he annotated other people's MSS. The curious who will compare the two lists following:

B 104, 131, 248, 250, 257, 266, 270, 278, 282, 291, 293, 294, 299, 300, 301, 302, 305, 307, 310, 312–21, 490, 747, 774, 776;

C 248, 250, 254, 255, 257, 263, 264, 270, 274, 278, 280, 282, 285–9, 292–4, 298–9, 302, 307, 310, 312–21, 490, 494, 506–8, 510, 512, 515–16, 520–21, 636, 637. 638.

may hesitate (as I do) to expand the first into 'Burghley' and the second into 'Carew,' at any rate without some eliminations, but will observe several startling coincidences for which the relations of Robert Cecil and Carew may or may not account. Some MSS. of Burghley's were once in the possession of Richard Chiswell, and may have come to Lambeth through Sancroft or Tenison, but the collection sold in 1687 was, as it seems to me, probably a remnant, though of respectable size. The point of this note, however, is to call the attention of students to the importance of a possibly unnamed seventeenth-century MS. catalogue of MSS. in which the contents may be numbered AAAA, BBBB, etc., for if it exists it will probably supply the completion of the list of MSS. which Carew owned.

student who can learn nothing from the unhistorical: and a Celt may be pardoned for thinking that even the most determined sceptic will scarcely doubt the genuineness of this record—

'Note that these tow septs of the McSwynes in Carbry, fromm whome all the McSwynes in Mounster are descended, have bene evermore untill now very lately in mortall malice one agaynst the other, in so muche as whensoever any of themm did meet they did assuredly fight, in a short tyme they grew to be very great nations, and many great slaughters have bene committed uppon eche other. The cause of this inveterated mallice is that ether sept dothe thinke themsellves of bettre descent then the other' (635 f. 14).

In passing away from these and similar MSS. (*e.g.* 19), I would just be allowed to say that it has been unfortunate that the Carew Collection has been so little used except for pedigree purposes even as the Bacon papers have chiefly been searched for controversial ends. Both series, however, contain much else that will repay study by anyone in search of unworn historical materials. The contribution which the Carew MSS. make to the history of Ireland, not only, if especially, as to the Plantation of Ulster, is known from the Calendars. Some students perhaps also know the volume of Irish Miscellanea (248) which contains Campian's History or the MS. of Spenser's 'View of the Present State of Ireland' (510), but few seem to turn to the papers in the Gibson Collection (*e.g.* especially 929, 930, 942, *cf.* 943).

I am conscious of the difficulty of giving even a bare summary of the materials alike for domestic and foreign history when one gets away from the list of great names nto the realm of little known or anonymous authors or of miscellaneous papers. I might begin with the 'Litill dialog . . . of the miserabill estait of ye warld' compiled by Schir David Lindesay of the mont Lionn king of armis 332), but you might say that it is not history. Shall we

try 'The Souueraigntie of the Seas of England, Proved by Record, Historie, and the Municipall Lawes of the Kingdome (178), or No. 292, 'A Learned discourse against England's engaging in foreign wars' (saec. xvii), which really belongs to the Carew Collection, with its conclusion, 'Honor attayned by Newtralitie in beinge the Arbitrer of all differances betweene the mightiest Neybours,' and its extremely interesting accounts of past expenditure; or the 'Humble Petition of all ye Femall Sex of ye Citty and Suburbs of London' to King Charles II 'conserning the peace and unity with ye Netherlands' (942)? In view of our present situation we should do better perhaps to refer rather to 'A breefe discourse what order were best for repulsinge of forren force, if at any tyme they should invade us by Sea in Kent or elswhere' (490). This treatise, which is not without judgment, is found bound up in one of those numerous volumes of Italian historical papers which might yield something if properly studied. In the present case they have reference to Persia, Spain, Venice, Genoa, etc. Sir Thomas Shirley's 'Remarks on Turkey, Germany, etc.' (514), William Smith's 'Brieff description of the famous and bewtifull cittie of Norenberg in High Germany' (508), Soarpi's 'Discourse upon the Inquisition' (252), are all more or less well known. I am not sure that the same is true of the account of the Inquisition in Portugal (782), or the description of Germany in volume x (703) of the Shrewsbury Papers. That sixteenth- and seventeenth-century collection, the possession of which we owe to Tenison, seems to have been unduly neglected, possibly because among many other grave blunders in a popular history of Lambeth [1] the contents are described as 'disappointing.' The extent of the study upon which this sweeping judgment is based may be estimated from the fact that the Bacon and Shrewsbury papers are said to be three volumes among the Gibson MSS.: they are two entirely separate collections containing sixteen and seventeen volumes respectively. However, it is easy to find fault,

[1] Cave Browne, *Lambeth Palace*, pp. 79–80.

and what I wish to do is only to stimulate inquiry. That form of it in the past which is expressed in Visitation returns or in the Notitia Parochialis is well represented, and not only for the eighteenth century; and the modern inquirer, if I may continue this discursive pilgrimage, might do much worse, should he be interested in parochial history, than lay aside for the moment his quest for a particular place in order to seek out everything that he can find at Lambeth about the diocese. As a result he will sometimes find things that he did not expect even in the midst of much that he does not want. Again I would recommend to the student of national history at home and abroad as possibly worth considering such jumbled entries in the catalogue as the names of various European countries afford, or such domestic entries as Parliament, Musters, Ordnance and the like. Here again he will sometimes meet with surprises, as when he finds an account of church livings mixed up with the munitions of a more carnal warfare. Sometimes, no doubt, he will meet with disappointments, for what he finds may be only a copy of an original elsewhere or an abstract, though even these may have their own value for us now as in the case of the 'Iura et Privilegia' of the clergy of the Church of England (323 *cf.* 800), to which Laud attached much importance, for indeed he had it made. If the researcher be a student of religious history from a different point of view there are various things worthy of study besides Harpsfield's 'Historia Wicleviana' (140), or the Lives of Robert de Bethune or More or Wolsey, and here above all he must beware of supposing in a library such as Lambeth that it is only under historical headings that you can find history. The Mar-Prelate tracts are not of course MSS., but there are many isolated Puritan documents and letters to be found by those who have the necessary training and patience to go through a volume which looks uninviting on the chance of finding just the thing for which they have been looking. In my own judgment every single volume of miscellaneous papers in the Library, and there are very

many, would repay someone else even more amply than those have repaid me that I have had occasion to go through; and of those belonging to previous gleaners I commend to your notice the collection which bears the name of that youthful prodigy of learning, Henry Wharton. It is singular that one who far more than most historians could make the past live again, John Richard Green, should have spoken of one portion of these miscellaneous volumes as 'the dry letter books on the Lambeth shelves.'[1]

I have dealt in perhaps excessive detail with some portions of the collections which are least consulted by students. If I say less about those that are better known it is for that reason. The magnificent series of Archiepiscopal Registers and the only less important series of Act Books both deposited in the Library for the benefit of students are of priceless historical value; and the same may be said of the Commonwealth Records, including some of the remains of the Parliamentary Survey of Church livings. These mines are well worked, but still very far from being exhausted. I have been fortunate enough to recover two more volumes since I have been at Lambeth, and I suspect private owners, and even—dare I say it?—the Record Office, of possessing more than they know. The American papers are well known and the Bacon-Shakespeare controversy, of which I speak with bated breath, provides a fairly constant stream of readers for the Bacon and Gibson papers. There would be even more if it were generally realized that Birch and Spedding are sometimes no more to be trusted for an exact representation of a document than my great and versatile predecessor David Wilkins. Shall I stimulate your curiosity by saying that there are several of the cyphers that have never been read and that in the only one that I have ever had time to work out I found to my amusement an unrecorded love passage in the life of Queen Elizabeth? I have said nothing about the

[1] J. R. Green, *Stray Studies*, p. 158.

boxes of Court Rolls and Miscellaneous Rolls, or the fourteen huge volumes of 'Chartae Miscellaneae' because I wish in conclusion to suggest that they do not receive the attention that they deserve. Some of the Court Rolls, though not a great proportion, have been published, including a large number of those relating to Somersetshire properties; and very many have been worked over for various purposes. Many single documents in the 'Chartae Miscellaneae' have also been published, but enough remain to make it abundantly worth while for a student to go through the hand-list and examine certain sections further. And I hope I shall not be regarded as lacking in respect for the work already done in the field of economic history if I say that I know as I look at some of the court and account rolls, or that bill for building Chichele's Tower in 1435, with its copious details of materials and men, or the roll of Cardinal Bourchier's Household Accounts, which I found in a chimney, with its details of the flagons of beer that they drank and the lark pie that they ate when the Pope's Legate 'supervened,' or the London tithe assessment of 1638, with its minute details of parishes and householders (272), or various household books of the great (*e.g.* Cranmer, Parker, Northumberland, Henrietta Maria), that there is much that is new and even important, worthy of the consideration of the students to whom Lambeth has always given a welcome. The librarian who reads, it is said, is lost: the librarian who does not read is more certainly useless; but no man can have either the knowledge or the time for everything, and he may legitimately seek to 'acquire merit' like Kim's Lama by affording an opportunity for indulging the genius and industry of others. And at least having done his best he will be more hopeful than a writer in one MS. (633), who scribbles at the end the words

> 'Gracia nulla perit, nisi gracia Blakmonachorum
> Est et semper erit litill thankes in fine laborum.'

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REPORT OF THE COUNCIL, SESSION 1915–1916.

THE Council of the Royal Historical Society present the following Annual Report to the General Meeting of the Fellows.

The history of the Society, in this time of great events, has been uneventful. The advantages of better accommodation in rooms, book space, amenities generally, and dignity, secured by the acquisition of a house of its own by the Society, become more and more apparent. In spite of the increased cost of administration, which has included some necessary rise in salaries, the financial position of the Society continues sound. The loss in numbers of Fellows owing to the War has been very small, and the fresh elections have been very numerous, much more than compensating for the resignations. The Council draw attention with great satisfaction to the large number of distinguished American scholars who have been elected Fellows. These have been elected as Fellows on the same footing as British scholars, not merely as corresponding members, thus sharing the full membership as fellow-workers in the common school of history, which on both sides of the Atlantic is equally devoted to the elucidation of a common constitutional and social heritage. It is open to Fellows materially to help the Society by exerting themselves to secure suitable candidates for election among those distinguished as historical writers, students and teachers. A List of Fellows elected during the Session is appended.

The Library continues to increase by the addition of volumes issued by bodies with whom the Society exchanges publications, or to which the Society subscribes, by purchases and by gifts. Dr. Prothero's kindness is again conspicuous in the last. Many important works of reference are still wanting to the Library, and the generosity of Fellows has here a useful field for exercise.

By death the Society has lost, among others, Sir Sandford Fleming and Mr. Wilfrid Ward, who died one month after his election as a Fellow.

Captain G. R. Day, Mr. Alexander Robertson and Mr. Maurice Fletcher have fallen on service.

One Honorary Vice-President is in the War Cabinet; one is serving at sea. Two of our members are in the Ministry. Many members of the Council and Fellows are serving in various capacities. A complete list of those who are on military service is much to be desired, but cannot be compiled unless Fellows or their friends will contribute the names.

The following Papers were read in the course of the Session :—

'Some Early Sources of Military and Naval History.' By C. Hilary Jenkinson, M.A., F.S.A., F.R.Hist.S. (November 18, 1915.)

'The Influence of the Writings of Sir John Fortescue.' By Caroline A. J. Skeel, D.Litt., F.R.Hist.S. (December 16, 1915.)

'Germany in the Time of George I.' By J. F. Chance, M.A., F.R.Hist.S. (January 20, 1916.)

'The Sources Available for the Study of Mediæval Economic History.' By E. Lipson, M.A., F.R.Hist.S. (March 16, 1916.)

'Germany and the French Revolution.' By G. P. Gooch, M.A., F.R.Hist.S. (April 13, 1916.)

'An Unedited Cely Letter of 1482.' By H. E. Malden, M.A., V.P. and Hon. Sec. R.Hist.S. (May 18, 1916.)

'The Burning of Brighton by the French.' By L. G. Carr Laughton. (May 18, 1916.)

'The Earl of Chatham and the City of London.' By Miss Hotblack, F.R.Hist.S. (June 15, 1916.)

At the Annual Meeting on February 17, 1916, the President, Professor C. H. Firth, delivered an Address dealing with the Study of British Foreign Policy.

The above Papers, with the exception of those read at the November and May meetings, are printed in the *Transactions*, Third Series, Vol. X. Owing to the War several changes were made in the contents of the official Card of the Session, and the Alexander Medal for 1915 was not awarded.

In addition to the current Volume of *Transactions* (Vol. X.), the following Volumes of *Publications* will be issued to the Fellows at an early date :—

Camden, Third Series, Vol. XXVII. 'Henry of Bray's Estate Book' (as in *Transactions* X., p. 240).

Camden, Third Series, Vol. XXVIII. 'Memoirs of the Families of Guise and Raymond' (Seventeenth-Eighteenth Centuries). Edited by G. Davies, B.A.

The following Volumes of the same series are in active preparation :—Camden Miscellany, Vol. XIII. 'The Stonor Family and other Mediæval Papers' (Fourteenth-Fifteenth Centuries), Vols. I. and II. Edited by C. L. Kingsford, M.A., F.S.A., F.R.Hist.S. Camden New Series, Vol. LXIII. 'Nicholas Papers,' Vol. IV. Edited by Sir G. F. Warner, D.Litt., F.S.A.

The brilliant lecture by Professor W. S. McKechnie upon 'Magna Carta, 1215 to 1915,' delivered November 27, 1915, was noticed in the last Report. But it was delivered in the Session now dealt with, and may fitly be again referred to, since there is now a prospect of its being shortly in the hands of Fellows, as the opening Paper in a collection of Magna Carta Essays which it is intended to print and to distribute.

The success of the scheme of Evening Lectures in 1915 encouraged the Council to arrange a series, dealing with Records, for the spring and summer of 1916. The following lectures were delivered :—

'Historical Documents; their Nature and Use.' By Professor T. F. Tout, M.A., F.B.A., Hon. V.P. R.Hist.S. (January 14, 1916.)

'The Public Record Office.' By R. A. Roberts, Esq., V.P. R.Hist.S. (February 11, 1916.)

'County Records.' By Professor C. H. Firth, LL.D., Litt.D., F.B.A., Pres.R.Hist.S. (March 9, 1916.)

'Some Municipal Records.' By Professor F. J. C. Hearnshaw, M.A., LL.D., F.R.Hist.S. (April 7, 1916.)

'Mediæval Chronicles.' By C. L. Kingsford, Esq., M.A., F.S.A., F.R.Hist.S. (May 5, 1916.)

'Diplomatic Correspondence.' By Hubert Hall, Esq., F.S.A., Director R.Hist.S. (June 8, 1916.)

'The Use of Documents in Local History.' By H. E. Malden, Esq., M.A., V.P. and Hon. Sec. R.Hist.S. (June 30, 1916.)

The lectures were followed with great interest, but the attendance was not so large as at the lectures in the previous Session. The Council propose to hold a further series this year upon European Congresses and Treaties of Peace, the prospectus of which has been sent to Fellows, and to alter the time of delivery to 5.15 P.M.

At the Annual General Meeting the following Vice-Presidents retired in rotation, in accordance with By-Law XVII. : H. E. Malden, M.A., the Venerable Archdeacon Cunningham, D.D., LL.D., and were re-elected. The following Members of Council also retired under the same By-Law, and were re-elected: Professor C. Raymond

Beazley, D.Litt., F.R.G.S., the Hon. J. W. Fortescue, M.V.O., Sir Sidney Lee, Litt.D., C. L. Kingsford, M.A., F.S.A.

The Secretary reports that the total membership of the Society on October 31, 1915, including Honorary Corresponding, Life and Ordinary Fellows, and Subscribing Libraries was 829. Of this number 17 were Honorary Fellows, 26 were Corresponding Members, and 9 were Life Fellows. The annual subscriptions are received from Ordinary Fellows paying £1 1*s.* under the old regulations; former members of the old Camden Society and Subscribing Libraries paying £1; and Fellows paying the Statutory subscription of £2 2*s.*

There are 59 British and Foreign Societies which exchange *Transactions* with the Royal Historical Society.

The Treasurer reports that the Income of the past year exceeded the Expenditure chargeable on that Income by £91 15*s.* 10*d.*

It will be seen that the increased liabilities of the new premises are being satisfactorily met.

The holding of the Society in 4½% War Loan (£300) has been transferred to the new 5% War Loan and a further investment of £100 made in the same stock.

The Auditors report that they have examined the statement of Income and Expenditure, together with the Balance-sheet appended to this Report, and have certified the same to be correct from their inspection of the books and vouchers.

ROYAL HISTORICAL SOCIETY.

I.—Income and Expenditure Account relating to the Year ending October 31, 1916.

Income.	£	s.	d.	*Expenditure.*	£	s.	d.
Subscriptions of 1915 : 3 at 20*s.* £3 0 0				Publications : Printing and Distributing £391 15 8			
,, ,, 2 at 21*s.* 2 2 0				Editing and Indexing . . 24 3 0			
,, ,, 16 at 42*s.* 33 12 0				£415 18 8			
£38 14 0				*Less* received from Sales . . 1 14 11			
Less amount estimated to be received in last year's accounts for subscriptions in arrear 20 0 0					414	3	9
Subscriptions in arrear, received in excess of estimate	18	14	0	Salaries of Director and Assistant Secretary and travelling expenses of Hon. Secretary £282 0 0			
Subscriptions now in arrear estimated to be received	20	0	0	Wages 66 16 6			
Subscriptions of 1916 : 191 at 20*s.* . . 191 0 0					348	16	6
,, ,, 33 at 21*s.* . . 34 13 0				Rent of Premises, 22 Russell Square	144	10	0
,, ,, 390 at 42*s.* . . 819 0 0				Coal	15	6	6
1044 13 0				Electric Light	3	10	8
Life subscriptions : 4 at £21 . . . . 84 0 0				Rates (Parochial, &c., and Taxes)	108	18	11
Less proportion required by By-Law IX. to be invested (see Balance-sheet) . . . 56 0 0				General Printing and Stationery	30	7	8
	28	0	0	Library : Books, Periodicals, and Binding . . .	20	7	7
Dividends on Russian 4 % Bond (Alexander Trust) . .	3	2	1	Postages, &c.	24	6	6
,, Consols	13	15	6	Sundries (Petty Cash Payments)	35	2	10
,, India 3½ % Stock	24	16	4	Advertising	5	4	0
,, Canada 3½ % Stock	8	5	5	Insurance (Fire, Aircraft, &c.)	11	14	6
,, War Stock 4½ %	11	2	9	Monthly Meetings (cost of Refreshments) . . .	9	1	4
Interest on Deposit Account at Bank	2	14	6		1,171	10	9
Historical Association	16	11	6	Balance, being excess of Income over Expenditure for the year ending October 31, 1916, carried to Balance-sheet	91	15	10
British Archæological Association	30	0	0				
American Historical Society	40	0	0				
Sundry small receipts	1	11	6				
	£1,263	6	7		£1,263	6	7

II.—Balance-sheet of Liabilities and Assets at October 31, 1916.

Liabilities.	£	s.	d.	£	s.	d.
Life Subscriptions required to be invested as Capital Account (By-Law IX.): amount brought forward from last Balance-sheet	1,318	0	0			
Proportion of Life Subscriptions received in 1915 (see Income and Expenditure Account)	56	0	0			
				1,374	0	0
[Represented by Consols, India 3½ % Stock, Canada 3½ % Stock, and Cash on Deposit—see *contra*]						
Alexander Trust Fund [Russian 4 % Bond—see *contra*]				98	17	6
Subscriptions received in advance				50	6	0
Amount due to Messrs. Spottiswoode, not yet paid				140	0	0
,, ,, Arden Press, Ltd. ,, ,,				160	0	0
Balance, being surplus of Assets over Liabilities at date Viz.—Amount brought forward from last year	2,617	11	1	2,493	6	11
Add Excess of Income over Expenditure as shown by Income and Expenditure Account	91	15	10			
	2,709	6	11			
Deduct amount written off value of Consols (see *contra*)	216	0	0			
	2,493	6	11			
				4,316	10	5

Assets.	£	s.	d.	£	s.	d.
Consols 2½ % £699 9*s.* 9*d.* current value				400	0	0
India 3½ % Stock £900 at cost				847	16	6
Canada 3½ % Stock £300 at cost				285	1	0
Russian 4 % Bond				98	17	6
War Loan, 1925–1945, 4½ % £300 at cost				282	18	8
Cash at Bank: Current Account	271	1	1			
,, Deposit ,,	103	13	2			
Petty Cash Balance in hand	7	2	6			
				381	16	9
Stock of Publications at Russell Square (value as insured)				100	0	0
Stock of Publications with Messrs. Spottiswoode, Ballantyne & Co. and Messrs. W. H. Smith & Son (value as insured)				500	0	0
Library (value as insured)				1,000	0	0
,, Manuscripts (value as insured)				100	0	0
Furniture, &c. ,, ,,				300	0	0
Subscriptions in arrear estimated to be received (see Income and Expenditure Account)				20	0	0
				4,316	10	5

(*Signed*) Henry R. Tedder, *Hon. Treasurer.*

Auditors' Report.

The above Statement of Income and Expenditure and Balance-sheet have been prepared from the Books and Vouchers, and we hereby certify the same to be correct.

(*Signed*) E. M. Lloyd.
J. Foster Palmer.
A. Forbes Sieveking.
} *Auditors.*

27th November, 1916.

LIST OF ELECTIONS, NOVEMBER 1915–DECEMBER 1916.

Adams, Professor G. B.
Alvord, Professor C. W.
Anderson, A. Knox.
Barnard, E. A. B., F.S.A.
Barton, the Hon. Mr. Justice Dunbar P., K.C.
Bishop, E. W., B.A.
Buchan, John, M.A.
Burfitt, C. T.
Callender, G., M.A.
Carrier, Miss, M.A.
Chamberlin, F., LL.B.
Colby, Professor C. W., M.A.
Colvin, Ian D.
Corbett, Julian S., LL.M.
Cross, A. L.
Davenport, Miss Frances G.
Davies, G., B.A.
Davis, Rev. F. N., B.A., B.Litt.
Deedes, Rev. Prebendary C., M.A.
Dowse, Lieut.-Col. E. C.
Duchesne, A. E.
Esher, Viscount, G.C.B.
Evans, Sir E. Vincent, F.S.A.
Evans, P. B., M.A.
Fish, Professor C. R.
Flenley, Ralph, M.A., B.Litt.
Ford, Worthington C.
Frazer, Sir James G., D.C.L., LL.D.
Fullerton, W. M.
Gibbons, H. A.
Greene, Professor E. B.
Hall, Major Sir John, Bart.
Hammerton, J. A.
Hasluck, E. L., B.A.
Hazeltine, H. D., M.A.
Hemmeon, Morley de Wolf.
Horsburgh, E. L. S., B.A.
I'Anson, W. M., F.S.A.
Jeffery, R. W., M.A.
Jocelyn, Colonel J.
Jones, Right Hon. Sir D. Brynmor, K.C.
Jones, Professor Guernsey.
Keyser, C. E., M.A., F.S.A., D.L.
Leathley, Rev. S. A., D.D., LL.B.
Lord, Robert H.
Lybyer, Professor A. H.
McIlwaine, C. H.
Malden, Rev. R. H., M.A.
Mayo, Rev. Canon C. H., M.A.
Methley, Miss V. M.
Morris, G. J., M.A.
Mumby, F. A.
Nevill, Rev. E. R.
Odgers, W. Blake, M.A., LL.D.
O'Regan, J. R. H., M.A.
Owen, Hugh, M.A.
Paul, J. N. W.
Pond, P. J.
Previté-Orton, C. W., M.A.
Rees, W., M.A.
Scofield, Miss Cora L.
Shawcross, Rev. J. P., M.A.
Smith, H. F. Russell, M.A. (killed on service).
Taylor, E. R., F.S.A.
Thayer, Professor W. R., LL.B., Litt.D.
Toller, T. Northcote, M.A.
Toynbee, Paget, M.A.
Turner, Professor E. R.
Turner, Professor G. Lyon, M.A.
Van Tyne, Professor C. H.
Waldstein, Sir Charles, Litt.D.
Wallace, Malcolm W.
Ward, Wilfrid (died April 1916).
Welldon, Right Rev. Bishop, D.D.
Whale, George.
Whitfield, A. S.
Williams, A. T. P., M.A.
Williams, W. Llewellyn, M.P., K.C.
Wilson, Rev. S. G. F.
Woolf, C. N. S., M.A.
Wordsworth, Rev. Prebendary C., M.A.
Wrong, Professor G. M.
Yate, Lieut.-Col. A. C., F.R.G.S.

LIBRARIES ADMITTED.

Amherst College Library, U.S.A.
Birkbeck College Library, Bream's Buildings, London, W.C.

Royal Historical Society.

(INCORPORATED BY ROYAL CHARTER.)

PATRON:
HIS MAJESTY THE KING.

PRESIDENT:
Professor C. W. C. OMAN, M.A., F.S.A., F.B.A.

I. The Historical Society was founded in the year 1868 by the then Archbishop of York, the late Earl Russell, the late George Grote, the late Dean of Westminster, Sir John Lubbock, Bart. (the late Lord Avebury), the late Earl of Selborne (then Sir Roundell Palmer), and other eminent men of the day, its main objects being to promote and foster the study of History by assisting in the publication of rare and valuable documents, and by the publication from time to time of volumes of Transactions and Publications.

II. In the year 1872 the Society, through the Secretary of State (the late Right Hon. H. A. Bruce, afterwards Lord Aberdare, G.C.B., for many years President of the Society), received the official permission of Her late Majesty Queen Victoria to adopt the title Royal Historical Society. In the year 1887 Her late Majesty was pleased to become Patron of the Society, and was also pleased to cause Letters Patent, dated July 31, 1889, to be passed under the Great Seal, granting to the Society Her Majesty's Royal Charter of Incorporation. Upon His accession to the Throne His Gracious Majesty King Edward VII. was pleased to become Patron of the

Society in succession to Queen Victoria. After the lamented death of King Edward, His present Majesty was graciously pleased to continue His Royal patronage. On May 2, 1897, the Camden Society was amalgamated with the Royal Historical Society, and the Camden Series of Publications was transferred to the latter Society.

III. The Society consists of a President, Fellows, and Honorary Fellows and Corresponding Members, forming together a body, at the present time, of nearly seven hundred Members. The principal States of Europe and America, British India, and the Colonies are represented by Honorary or Corresponding Fellows.

IV. The Annual Subscription to the Society is *Two Guineas*; and at present there is no entrance fee. Fellows may, on joining the Society or afterwards, compound for all future subscriptions upon the payment of *Twenty Guineas*. Libraries may be admitted to the Membership of the Society for the purpose of receiving its Publications on payment of an annual subscription of *One Pound*.

V. The Fellows of the Society and Subscribing Libraries in Great Britain receive gratuitously a copy of each of the Society's Transactions and Publications during the period of their subscription. It is desirable that Foreign Libraries should appoint an Agent in London to whom the Publications may be delivered for transmission.

The annual Publications of the Society include a volume of Transactions containing selected Papers read at the Society's Ordinary Meetings, together with the

texts of the most valuable of the original documents which may be communicated to the Society from time to time by historical scholars. In addition to this volume, the Council will endeavour to continue the regular production of a uniform series of Publications (in the style of the Camden Series of Publications), at the rate, if possible, of two volumes in every year. In the interests of the Membership of the Society, the Council have recently decided that the Publications of the Society shall in future be published by the Society alone, and shall be issued only to Fellows and Subscribing Libraries. Arrangements have been made by which back volumes, as far as the stock permits, can be supplied to newly elected Fellows at a moderate price.

VI. Ordinary Meetings of the Society for the reading of Papers and discussions thereon are held from November to June, on the *second* Thursday in each month, at 5 P.M. The Anniversary Meeting is held on the second Thursday in February, when the Report of the Council is presented to the Fellows, and the President delivers his Annual Address.

VII. The Library of the Society, at 22 Russell Square, W.C. 1, is open to Fellows daily, from 10 A.M. to 6 P.M. (Saturdays, 10 A.M. to 2 P.M.) The Library will be closed on the first Monday in August, Christmas Day, Boxing Day, Good Friday, Easter Monday, and Whit Monday.

Books may be taken out by Fellows on signing a ticket for the same, but no Books may be kept out for a longer period than three months. Maps, MSS., and Periodicals must not be taken from the Library. Fellows are responsible for Books used or taken away

by them. No writing of any kind may be made upon Books or MSS. Owing to the limited space available for general historical literature, the Council must reserve the right to decline donations of books which may appear unsuitable.

VIII. All literary communications, proposals for Papers to be read before the Society, or for Historical documents or relics to be exhibited at the ordinary Meetings, should be addressed to the Director,

22 Russell Square, W.C. 1.

All communications respecting the Library should be addressed to the Librarian,

22 Russell Square, W.C. 1.

All subscriptions, unless paid by Banker's Order, should be sent to the Treasurer,

22 Russell Square, W.C. 1.

The attention of Fellows is directed to By-law XI. on this subject.

Communications on all other subjects should be addressed to the Hon. Secretary,

22 Russell Square, W.C. 1.

No. I.

FORM OF A CANDIDATE'S CERTIFICATE.

Certificate of Candidate for Election.

Name, ...

Title, Profession, or Occupation, ...

Residence, ...

Qualifications, ...

being desirous of admission into the ROYAL HISTORICAL SOCIETY, we the undersigned recommend him as a fit and proper person to be admitted as a Fellow.

Dated this ..... day of ..... 191 .....

..... *F.R. Hist. Soc.* — *From personal knowledge.*

..... *F.R. Hist. Soc.* — *From general knowledge (one signature required by Rule II.).*

..... *F.R. Hist. Soc.* — *From general knowledge (one signature required by Rule II.).*

Proposed 191

Elected ..... 191 .....

Copies of this Form may be obtained on application to THE HON. SECRETARY, 22 *Russell Square, W.C.* 1.

No. II.

A VOTE by ballot, when necessary, shall be conducted in the usual manner, and the Secretary shall cause Voting Papers to be prepared for that purpose in the following form :—

VOTING PAPER.

Election held ..... **19** .....

Candidates for the office of President:	1.	.....
	2.	.....
Vice-President:	**Retiring Vice-Presidents who offer themselves for re-election.**	
	1.	.....
	2.	.....
	Candidates nominated under Rule XVIII.	
	3.	.....
	4.	.....
For the Council:	**Retiring Members who offer themselves for re-election:**	
	1.	.....
	2.	.....
	3.	.....
	4.	.....
	Candidates nominated under Rule XVIII.	
	5.	.....
	6.	.....
	7.	.....
	8.	.....

Fellows shall record their votes by putting a cross against the names of the Candidates in whose favour they wish to vote. If any Fellow shall record his vote for more Candidates than there are vacancies, his Voting Paper shall be void.

CHARTER OF INCORPORATION

CHARTER OF INCORPORATION

OF THE

ROYAL HISTORICAL SOCIETY.

Victoria, BY THE GRACE OF GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, TO ALL TO WHOM these Presents shall come, Greeting;

WHEREAS Our right trusty and well beloved Councillor, Henry Austin, Baron Aberdare, Knight Grand Cross of Our most Honourable Order of the Bath, Fellow of the Royal Society, has by his Petition humbly represented unto Us, That in the year one thousand eight hundred and sixty-eight, His Grace the Archbishop of York, the late Right Honourable John, Earl Russell, K.G., F.R.S., the late Very Reverend the Dean of Westminster, Sir John Lubbock, Baronet, the late Sir John Bowring, LL.D., Sir Roundell Palmer, Q.C., M.P., D.C.L., now Earl of Selborne, the late George Grote, Esquire, F.R.S., and others of Our subjects formed themselves into a Society known as the Historical Society of Great Britain, having for its object the promotion of the study of History;

AND WHEREAS We were pleased in the year one thousand eight hundred and seventy-two to permit the said Society to adopt the name and title of the Royal Historical Society;

AND WHEREAS in the year one thousand eight hundred and eighty-seven We were pleased to become Patron of the said Royal Historical Society;

AND WHEREAS it has been represented to Us by the said Petitioner that the said Society has been and continues to be actively employed in promoting the object for which the said Society was founded, and has published thirteen volumes of Transactions containing original memoirs read before the Society, and did also in the year one thousand eight hundred and eighty-six appoint a

Committee for the due celebration of the eight hundredth anniversary of the completion of the Domesday Book of His late Majesty William the First, by which Committee meetings for the reading of papers and exhibitions of Domesday Book and other manuscripts were held, and the papers read at the meetings have been published under the title of Domesday Studies, of which We have been pleased to accept the dedication, and the said Society has also published the despatches from Paris in one thousand eight hundred and two-one thousand eight hundred and three of Lord Whitworth, Ambassador of His late Majesty King George III ;

AND WHEREAS the said Society has in aid of its objects collected a Library to which additions are constantly being made, and other property ;

AND WHEREAS the said Petitioner, believing that the well-being and usefulness of the said Society would be materially promoted by its obtaining a Charter of Incorporation, hath therefore, on behalf of himself and the other Fellows of the said Society, most humbly prayed that We would be pleased to grant to those who now are, or who shall from time to time become Fellows of the said Society, Our Royal Charter of Incorporation ;

NOW KNOW YE that We, being desirous of encouraging a design so laudable and salutary, of Our especial grace, certain knowledge and mere motion, have granted, directed and declared, and by these Presents do grant, direct, and declare that the said Henry Austin, Baron Aberdare, and such others of Our loving subjects as now are Fellows of the said Royal Historical Society (hereinafter called the said Society), or as shall hereafter from time to time become under the provisions of these Presents Members of the Body Politic and Corporate by these Presents created, shall for ever hereafter be one Body Politic and Corporate by the name of the ROYAL HISTORICAL SOCIETY ; and for the purposes aforesaid, and by the name aforesaid, shall have perpetual succession and a Common Seal, with full power and authority to alter or vary, break and renew the same at their discretion, and by the same name to sue and be sued, implead and be impleaded, answer and be answered in every Court of Us, Our Heirs and Successors.

AND Our will and pleasure is, that the Royal Historical Society hereby created (hereinafter called the Corporation) may, notwithstanding the Statutes of Mortmain, take, purchase, hold and enjoy to them and their successors a hall or house, and such other lands, tenements, and hereditaments as may be necessary for carrying on

the purposes of the Society, Provided that the yearly value of such lands, tenements, and hereditaments (including the said hall or house) computed at the yearly value of the same at the time of the respective purchases or acquisition thereof do not exceed in the whole the sum of Two thousand pounds sterling.

AND Our will and pleasure is, and We do hereby declare, That there shall always be a Council of the Corporation, and that the said Council shall consist of a President, not less than six Vice-Presidents, a Treasurer, a Secretary, and not less than fourteen Councillors, who shall be elected and retire in accordance with the By-laws for the time being of the Corporation, and that the present Council of the said Society shall be the first Council of the Corporation;

AND Our will and pleasure is, That the Council of the Corporation may from time to time make, revoke, alter, and amend by-laws for all or any of the following purposes, to wit:—

(*a*) Prescribing the manner in which persons may become members of the Corporation and the conditions of membership, and the rights, powers, duties, privileges, and amotion of the members of the Corporation;

(*b*) Prescribing the tenure of office by the President, Vice-Presidents, Treasurer, Secretary, and Councillors of the Corporation (including those hereby appointed), and the mode of electing or appointing future Presidents, Vice-Presidents, Treasurers, Secretaries and Councillors, and the rights, powers, duties, privileges, and amotion of the first and future Presidents, Vice-Presidents, Treasurers, Secretaries, and Councillors;

(*c*) With respect to the appointments, emoluments, and tenure of office of the officers and servants of the Corporation;

(*d*) The election or appointment and amotion of honorary members or Fellows of the Corporation (who may, if the by-laws so declare, be either Our subjects or foreigners, or both);

(*e*) The classes into which Members are to be admitted;

(*f*) Generally for regulating the affairs, property, business, and interests of the Corporation and its Council and Members, and making, revoking, altering, and amending by-laws and carrying out the objects of these Presents;

Provided that such by-laws shall not be valid unless and until they have been approved by a clear majority of the members of the Corporation present at a meeting specially summoned for the purpose, and Provided also that if any by-law be contrary to the objects

of the Corporation, or the intent or meaning of this Our Charter, or the laws or statutes of Our Realm, the same shall be absolutely null and void.

WE do further direct and declare that the existing by-laws of the said Society shall (so far as they are applicable) apply to the Corporation, its Council, members, and affairs until by-laws made under these Presents have come into force but no longer.

WE do further by these Presents declare that it is Our will and pleasure that these Presents may be repealed, altered, amended, or added to by any Charter granted by Us, Our Heirs and Successors, at any time hereafter, and accepted by a clear majority of the members of the Corporation present at a Meeting specially summoned for the purpose.

IN WITNESS whereof We have caused these Our Letters to be made Patent. WITNESS Ourself at Westminster, the thirtieth day of July, in the fifty-third year of Our Reign.

By Warrant under the Queen's Sign Manual,

MUIR MACKENZIE. L.S.

BY-LAWS

THE BY-LAWS

OF THE

ROYAL HISTORICAL SOCIETY

(Incorporated by Royal Charter).

I.—The Society shall consist of Ordinary and Honorary Fellows and Corresponding Members. The number of Honorary Fellows shall not exceed Seventy-five ; and of these not more than twenty-five shall be British subjects.

II.—Every person desirous of admission into the Society as an Ordinary Fellow must be proposed and recommended agreeably to the Form No. I. in the Appendix hereto, and such recommendation must be subscribed by two Fellows at least, one of whom must certify his personal knowledge of such candidate. The certificate thus filled up shall be delivered to the Secretary, and shall be communicated by him to the Council at their next meeting, when the election of such candidate may take place.

III.—Fellows shall be elected by the Council on the vote of two-thirds of the Members of Council present. The names of those so elected shall be announced at the next Ordinary Meeting of Fellows.

IV.—The Secretary shall send to every elected Fellow notice of his election within seven days thereafter. No election of an Ordinary Fellow shall be complete, nor shall his name be printed in the list of the Society, nor shall he be entitled to any of the privileges of a Fellow, until he shall have paid his

entrance fee (if any) and first year's subscription, or compounded for the same, as hereinafter provided; and unless these payments be made within three calendar months from the date of election, such election may be declared void by the Council.

V.—Subject to the limit fixed in Rule I., the Council shall be empowered to elect persons of distinction in historical studies as Honorary Fellows, or as Corresponding Members, who shall not be required to pay an entrance fee or annual subscription; but no persons so elected shall be entitled, except on the special vote of the Council, to receive the Publications of the Society, or to vote at meetings. The Council may also nominate distinguished Fellows of the Society to be Honorary Vice-Presidents, who shall be elected by the Fellows at the Anniversary Meeting, and shall retain the title so long as they are Fellows of the Society, provided that the number of Honorary Vice-Presidents shall not exceed twenty-five.

VI.—The Council shall also be empowered to admit Libraries as subscribers for the Publications of the Society, and to define from time to time the conditions of such admission.

VII.—If any Fellow of the Society shall so demean himself that it would be for the dishonour of the Society that he longer continue to be a Fellow thereof, the Council shall take the matter into consideration; and if two-thirds of the Members of the Council present and voting at a meeting (of which and of the matter in hand such Fellow and every Member of the Council shall have due notice) shall decide by ballot to recommend that such Fellow be removed from the Society, he shall be requested to resign. If he refuse to resign, a Special Meeting of the Society shall be convened to consider the recommendation of the Council, at which meeting, or at an adjourned meeting, the question shall be decided by ballot; and if two-thirds of the Fellows present and voting agree with the recommendation of the Council the name of such Fellow shall forthwith be removed from the Roll.

VIII.—The Annual Subscription shall be Two Guineas, provided always that Fellows elected prior to the 1st of March, 1884, shall not be required to pay more than One Guinea annually, and Members of the Camden Society elected prior to the 1st March,

1895, the sum of One Pound annually. The Council shall decide from time to time whether any entrance fee shall be levied and, if so, shall fix its amount.

IX.—Fellows of the Society may at any time compound for their annual subscription by the single payment of Twenty Guineas, of which Fourteen Pounds Sterling shall be placed to the Capital Account of the Society.

X.—No Fellow shall be entitled to any of the privileges of the Society unless and until his subscriptions for the current and previous years have been paid.

XI.—Any Fellow of the Society failing to pay the subscription due for the current year on or before June 1 shall be applied to in writing by the Secretary; and if the same be not paid on or before the 31st December following, the Council shall be empowered to remove his name from the Roll; but such Fellows shall continue liable to the Society for the arrears of their subscriptions.

XII.—Every Ordinary Fellow of the Society shall, during the term of his subscription, be entitled to receive the Publications of the Society free of expense.

XIIIA.—Every Fellow of the Society shall furnish his Address, or that of his Agent or Banker, to the Secretary; and all notices or packets posted or sent to such address shall be held to be duly delivered.

XIIIB.—No dividend, gift, division or bonus in money shall be made by the Society unto or between any of its Fellows.

XIV.—Fellows shall have access to the Society's Library under such regulations as may appear to the Council necessary.

XV.—The President shall be elected by the Fellows at the Anniversary Meeting, and shall hold office for a term of four years. The past Presidents shall be ex-officio Honorary Vice-Presidents of the Society.

XVI.—The Council shall consist of the President, not less than eight Vice-Presidents, the Treasurer, the Secretary, and not less than sixteen Councillors.

XVII.—The two Vice-Presidents senior on the Council Roll, and the four Councillors senior on the Council Roll, shall retire annually, but shall be re-eligible.

XVIII.—The names of Fellows to be submitted for election as Office-Bearers and Councillors shall be proposed by the Council and intimated to the Fellows at least Fifteen days before the Anniversary Meeting; but any ten Fellows of the Society may nominate Fellows to supply vacancies, such names being notified to the Secretary at least Ten days before the said Meeting. If the number of Candidates nominated as Vice-Presidents or Councillors be such as would, if all were elected, raise the number of Vice-Presidents or Councillors above eight or sixteen respectively, the Meeting shall determine the number of vacancies to be filled; and if the number of vacancies so determined for either class should be less than the number of Candidates, the elections for that class shall take place by ballot as provided in Appendix II.

XIX.—On a vacancy occurring in the office of President or other office of the Society, or in the Council, the Council shall have power to supply such vacancy until the following Anniversary Meeting.

XX.—In all Meetings of the Council five shall be a quorum, and all questions shall be decided by show of hands, unless a ballot be demanded.

XXI.—The Council shall determine the Works, Articles, and Papers to be read at the Society's Meetings, and otherwise shall arrange the business of the Society; and nothing shall be published in the name of the Society, or under its auspices, or inserted in the Society's *Transactions* or other publications, without the authority of the Council.

XXII.—The Council shall appoint any persons they deem fit to be salaried officers or clerks, for carrying on the necessary

concerns of the Society ; and shall define the duties to be performed by them respectively, and shall allow to them respectively such salaries, gratuities, and privileges as the Council may deem proper ; and may suspend or discharge any officer or clerk from office whenever there shall seem to them occasion for so doing

XXIII.—The Meetings of the Society are of three kinds—Anniversary, Special, and Ordinary.

XXIV.—The Anniversary Meeting shall be held on the Third Thursday of February, or at such other time as the Council shall from time to time appoint. At the Anniversary Meeting the vacancies in the Council shall be filled up.

XXV.—The Council may call a Special Meeting of the Society whenever it shall be considered necessary, and shall convene a Special Meeting of the Society on a requisition to that effect being made by twenty Fellows, the date of such Meeting being fixed within one month from the receipt of the requisition.

XXVI.—A fortnight's notice, at least, of the time when, and the object for which, every Special Meeting is to be holden shall be sent to every Fellow residing in the United Kingdom ; and no other business than that of which notice has been thus given shall be entered upon or discussed at such Meeting.

XXVII.—At every Special Meeting of the Society ten Fellows shall form a quorum.

XXVIII.—The Ordinary Meetings shall be held on the third Thursday of each month, from November to June inclusive in each year, or at such other times as the Council shall determine.

XXIX.—At the Ordinary Meetings papers and communications shall be read and discussed ; but nothing relating to the regulations or management of the Society shall be brought forward.

XXX.—Visitors to the Ordinary Meetings may be admitted if introduced personally by Fellows, or by their written order, under such regulations as the Council may determine.

XXXI.—Any Fellow of the Society who proposes to read a Paper at any Ordinary Meeting shall submit it for the approval of the Council, and shall state in writing whether such Paper has, in whole or in part, been previously read to any other Society, or publicly utilised in any form; but it shall rest with the Council to determine whether a Paper shall be read or utilised by the Society.

XXXII.—At all Meetings of the Society, or the Council, or the Committees thereof, the President, if present, shall be Chairman; and in his absence one of the Vice-Presidents, or, if no Vice-President be present, a Member of Council shall be elected Chairman for the occasion.

XXXIII.—In all Meetings of the Society and Council, except in the cases otherwise provided for, the decision of a majority of the Fellows voting shall be considered as the decision of the Meeting, the President or Chairman having a casting vote only.

XXXIV.—The Accounts of the Society shall be from time to time examined by the Council, who shall present, and cause to be read to the Anniversary Meeting a complete statement thereof, together with a report on the general affairs of the Society during the preceding year.

XXXV.—The Treasurer shall receive all moneys due to the Society, and on the order of the Council pay out of the moneys so received all charges on the Society's funds; he shall keep a proper account of his receipts and payments. All cheques or orders on the Treasurer's account for the payment of any sum of money above £5 must be authorised by the Council, and cheques must be signed by the Treasurer and two Members of the Council.

XXXVI.—At the last Ordinary Meeting in each session, the Fellows shall choose two Auditors, not of the Council, who, with one Auditor appointed by the Council, shall audit the Treasurer's accounts, and report thereon to the Society, which report shall be presented to the Anniversary Meeting.

Royal Historical Society.

(INCORPORATED BY ROYAL CHARTER.)

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Royal Historical Society.

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*Those marked * have compounded for their Annual Subscriptions.*

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